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Communication

**from the Commission on the Review and Safeguarding of Parliamentary Rights
regarding Mandates for Bundeswehr Missions Abroad**

Final Report by the Commission

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Summary of Proposals and Recommendations made by the Commission

The mandate for the Commission established by the German Bundestag with its decision of 20 March 2014 was to examine ‘how parliamentary rights can be safeguarded on the road to progressive Alliance integration and despite the growing diversity of tasks.’ Greater military integration is increasing the mutual dependencies between the Alliance’s members and entails political commitments that also affect the practical exercise of parliament’s rights in relation to the deployment of German armed forces. The proposals and recommendations made by the Commission below are aimed at safeguarding the rights of the Bundestag in its oversight of military integration and, at the same time, enhancing Germany’s ability to honour its obligations within the Alliance.

Reports on multilateral composite military capabilities

The Commission proposes that each year the German Federal Government submit a report to the Bundestag on multilateral composite military capabilities whose availability is to be assured politically. Furthermore, the German Federal Government should inform the Bundestag at an early stage when new multilateral composite capabilities are formed in order to ensure attention is targeted on the implications of the progress in the integration process they represent. The aim of these reports would be to foster political trust in the German contributions to these capabilities. Regarding multilateral composite military capabilities, the constitutive approval of the Bundestag would remain the precondition for their deployment as part of an armed operation, not least so that the rationale for such deployments would be communicated to the public.

The Commission uses the term ‘multilateral composite military capabilities’ (German: *multilaterale militrische Verbundfhigkeiten*, French: *capacits militaires multilatrales composites*) to refer to military capabilities formed within the framework of progressive Alliance integration, which require particular political trust on account of the dependencies with which they are associated.

A ‘composite formation’ is a structure based on a division of labour in which the individual elements cannot be separated from one another without damaging the whole and its constituent parts. In its entirety, therefore, a composite formation generates added value compared to the sum of its parts. At the same time, it is clear from the term ‘composite capability’ that the national contributions to a composite formation remain identifiable as such. Composite capabilities are multilateral because they are based on a multilateral division of labour in the context of NATO or the EU. In consequence, they not only include multinationally manned and operated structures, but also national specialised capabilities. Such national capabilities can also be of critical significance for the functioning of the Alliance and therefore part of the division of labour in a multilateral composite formation.

AWACS, the future Alliance Ground Surveillance system, the EU Battlegroups and NATO’s integrated command structure are all examples of multilateral composite capabilities. Another example is NATO’s Very High Readiness Joint Task Force (VJTF), the functionality of which depends on the Member States actually being able to deliver the contributions they have pledged when a deployment is conducted. There may also be mutual dependencies where national capabilities are pooled under a joint command, as for example at the European Air Transport Command (EATC).

The Commission is of the opinion that the continuing progressive integration of the Alliance’s military capabilities will, among other things, depend decisively on the confidence Germany’s partners have that capabilities organised on the basis of a division of labour will definitely and reliably be available if a mission is decided on at the international level with German approval. As a means of strengthening its Alliance partners’ confidence in Germany’s reliability, there will be a need for a political process that makes the political actors conscious of the dependencies linked with multilateral composite capabilities. The reports on multilateral composite military capabilities proposed by the Commission are to serve this purpose.

The German Federal Government would use the submission of these annual reports to explain the concrete responsibility for multilateral composite military capabilities consequent upon its solidarity with the other members of the Alliance. In this respect, the reports are to give an up-to-date general overview of the political commitments entered into by Germany under the auspices of Alliance integration and the dependencies with which they are associated. The expectation is that this would build confidence among Germany’s partners in two ways. Firstly, the German Federal Government would bind itself to these concrete forms of Alliance solidarity. Secondly, not

least as a result of their regularity, the reports and the debates that would be held on them would encourage a heightened awareness of our partners' concerns in the Bundestag. To this end, the reports would contribute to the preparation and facilitation of political decision-making when the German Federal Government asked the Bundestag to approve the deployment of such capabilities.

The reports on the establishment of new multilateral composite military capabilities should make it possible for timely, focussed deliberations to be held on the specific questions raised by the new capabilities in question.

Incorporation of provisions on staff units and headquarters into the Parliamentary Participation Act

In order to take account of the special significance of military staff units and headquarters, the Commission proposes a greater degree of legal certainty be created with the addition of express provisions to the Act governing Parliamentary Participation in Decisions on the Deployment of Armed Forces Abroad (Parliamentary Participation Act – ParlBG).

Under the new provisions, work done by Bundeswehr servicewomen and men in staff units and headquarters of NATO, the EU or other organisations of mutual collective security would not be subject to approval by the Bundestag. Different rules would be followed if German servicewomen or men found themselves in an area of armed conflict while engaged in these activities. The background to this is that such situations typically expose the servicewomen and men in question to increased military dangers. In consequence, the deployment of mobile elements of a permanent staff unit to an area of armed conflict also require parliamentary approval. The same applies if servicewomen and men personally operate weapons that are deployed there.

Clarification of the term 'deployment'

In view of the questions of definition encountered during its deliberations, the Commission recommends a legislative clarification of the term 'deployment' that makes it clear which practically relevant types of deployment are not typically anticipated to result in involvement in an armed operation and so do not require the approval of the Bundestag. In particular, the Commission sees a need for clarification about specific types of deployment on which servicewomen and men are either unarmed or merely carry arms for the purposes of self-defence. These include the provision of logistical services and medical care, as well as the deployment of training and observer missions.

The Commission therefore proposes the adoption of a statutory presumption concerning the circumstances under which involvement in an armed operation is not anticipated on these types of mission.

Recommendation concerning the formulation of mandates

The Commission recommends that the German Federal Government make greater use of the scope it already enjoys when formulating requests for the approval of armed deployments so that it is able to respond with greater flexibility to certain developments during the term of a mandate. This relates, in particular, to the maximum number of servicewomen and men to be deployed, the determination of the deployment area and the specification of the capabilities of the armed forces to be deployed.

It would be consonant with the constitutional division of responsibilities between parliament and the government for mandates to be worded in ways that give the German Federal Government leeway when implementing a mission's strategic goals.

Specific kinds of flexibility may be required when German participation in United Nations peace missions is mandated. The Commission recommends that the needs of the United Nations in this regard be taken into consideration.

Simplified procedure

The Commission views the simplified procedure (Section 4 ParlBG) as an appropriate and differentiated mechanism under which the Bundestag can approve armed forces deployments of minor scope and intensity. It makes it possible to set appropriate priorities in the parliamentary procedure without calling into question the Bundestag's continued role bearing joint responsibility for these mandates. This is true, in particular, for the extension of mandates that have not been amended (Section 7(1) ParlBG).

No requests forwarded by the German Federal Government have been given approval using the simplified procedure since 2006. From the Commission's perspective, one factor in this is that, according to the provisions in the legislation, silence is interpreted as implicit approval. One reason for demanding a request be debated by the Bundestag is therefore that this offers an opportunity to express a dissenting view of the matter.

In order to improve the acceptance of the simplified procedure in future, the Commission recommends that recourse be had to the parliamentary convention that a parliamentary group can declare it agrees to a request being dealt with using the simplified procedure, but not give its approval to the substance of the request. If such a declaration is delivered, it should be published in the record of proceedings when it is announced that approval has been granted using the simplified procedure. The same procedure should be followed when such declarations are delivered by individual parliamentarians, irrespective whether they reach the quorum of five per cent of the Members of the German Bundestag required to demand that parliament debates a deployment.

Regular stocktake assessment and interdepartmental evaluation

The Commission proposes that obligations to regularly take stock of what has been achieved and to present an evaluation report following the conclusion of each deployment be incorporated into the provisions on obligations to furnish information (Section 6 ParlBG). Both obligations to furnish information are already foreseen in the explanatory memorandum to the Draft Parliamentary Participation Act.

The function of the stocktake assessment in the justification of requests for the extension of mandates would be to offer an assessment of a mission's effectiveness on the basis of structured key information. The evaluation report should be based on a comprehensive debriefing exercise on the deployment and, in particular, set out in a differentiated fashion the extent to which the goals pursued with the mission have been attained. This would mean asking what lessons could be drawn for future missions. The balancing assessments and evaluations should not be limited to the military aspects of crisis response missions, but take an interdepartmental approach.

Secret operations of the special forces

The Commission proposes, firstly, that the practice followed to date when information is furnished about secret special forces missions be incorporated into the Parliamentary Participation Act. Secondly, to complement this, the Committee on Foreign Affairs and the Defence Committee of the German Bundestag are to be informed orally about a deployment's essential goals and results following its conclusion.

Operative details of a mission such as the number of servicewomen and men deployed, and the ways in which the mission has been prepared and conducted would be expressly excepted from the information to be provided to the committees. Nor would information that permits inferences to be drawn concerning the special forces' capabilities and could therefore threaten the conduct of future missions be covered by the obligation to furnish information. Furthermore, the proposal expressly provides for our Alliance partners' interests in the security of classified material to be protected. German special forces' ability to cooperate with forces from other countries must not be compromised by the information provided to the Bundestag.

Consideration of non-military components of multidimensional crisis response

Initially, the constitutive requirement of parliamentary approval shifts the focus of parliamentary and public attention onto the military dimension of the international response to a crisis. A substantive, responsible political

debate about the meaning and purpose of such an armed mission must, however, discuss it in the light of the general political concept in which it is embedded. In this respect, there is a need to look, in particular, at the civilian components without which sustainable crisis management is not possible. They include, among other things, the provision of humanitarian aid, measures to build functioning state structures and improve the human rights situation, and the deployment of police officers. Consideration is also to be given to the interfaces integral to civilian-military cooperation. Against this background, it is precisely the configuration of non-military elements, for example their capabilities and equipment, that is of significance for the effectiveness of a military deployment, which always has to be embedded in a general conception.

The Commission therefore recommends that the civilian tasks and components of more extensive, multidimensional crisis response missions be accorded greater attention in the parliamentary deliberations on deployments of the armed forces. The parliamentary deliberations and any decisions about aspects of non-military components to which they led would not have the purpose of extending the constitutive requirement of parliamentary approval to civilian and/or police deployments abroad. The subject of the mandates for which parliament would bear joint responsibility would remain solely the deployment of the armed forces.

Strategic debate about greater commitment to United Nations peace missions

In the estimation of the Commission, the United Nations' need for high-value military capabilities for peacekeeping operations will tend to rise further. If Germany wishes to take on more responsibility in this field, in particular in cooperation with its European partners, a series of strategic decisions will have to be taken about how this goal is to be achieved. In particular, it will be necessary to address questions about the capabilities with which Germany wishes to commit itself, which partners it wishes to collaborate with, and in which regions and under which crisis scenarios it wishes to take action. The Commission recommends that the Bundestag participate in this strategic discussion in a suitable form.

Contact with parliamentarians in other Alliance countries

Even if confidence between Alliance partners is fostered first and foremost by cooperation within the Alliance and at the government level, contributions can be made at the parliamentary level that complement this process. This reflects the fact that the governments of Germany's Alliance partners also have to explain, not least to their own parliaments, how the availability of newly established multilateral composite capabilities will be assured politically. This is why the Commission recommends that contacts with parliamentarians from Germany's Alliance partners and Members of the European Parliament be exploited to strengthen mutual understanding on security and strategic issues.

Further recommendations

The Commission recommends that the Bundestag use a suitable procedure to deliberate on a possible reform of the constitutional framework for Bundeswehr missions abroad because it would exceed the Commission's mandate to carry out a more in-depth analysis of the current political and constitutional discussion.

Furthermore, the Commission is putting forward recommendations on complementary organisational measures within the administration and a parliament-friendly approach to the provision of information to the Bundestag about the EU's Common Security and Defence Policy.

Part One – Establishment of the Commission, mandate, composition and programme of work

Establishment of the Commission and its mandate

The motion tabled by the Christian Democratic Union/Christian Social Union (CDU/CSU) and Social Democratic Party of Germany (SPD) parliamentary groups on 11 March 2014¹ was adopted by the German Bundestag in its sitting on 20 March 2014,² with which it established the Commission on the Review and Safeguarding of Parliamentary Rights regarding Mandates for Bundeswehr Missions Abroad.³

The Commission's mandate was defined as follows:

The German Bundestag charges the Commission with examining how parliamentary rights can be safeguarded on the road to progressive Alliance integration and despite the growing diversity of tasks. The Commission's aim is to examine, from a legal and political perspective, action required in this respect for revision of the Parliamentary Participation Act. On this basis, the Commission is to formulate options for action, where possible by consensus, which could then be incorporated as part of a formal legislative procedure, where required.

The work of the Commission is to focus on the following aspects:

- *Investigating the various forms of military integration currently in operation under NATO and the EU, as well as those expected in future, and identifying potential areas of tension regarding the present form of parliamentary participation in Germany;*
- *Investigating the procedural possibilities under constitutional law for parliamentary participation at an early stage, using the full spectrum of instruments available;*
- *Investigating the possible means of varying the degree of parliamentary participation depending on the type of mission, while fully reflecting the rulings of the Federal Constitutional Court;*
- *Formulating concrete options for action, by consensus where possible, based on the investigations.*

The Commission constituted itself on 10 April 2014.

Composition of the Commission

According to the decision that established it, the Commission was to have 16 members, of whom seven were to be appointed by the CDU/CSU parliamentary group, five by the SPD parliamentary group and two each by the Left Party and Alliance 90/The Greens parliamentary groups.

The Left Party and Alliance 90/The Greens parliamentary groups refused to appoint any members to the Commission, with the consequence that the Commission has in fact been composed of the following twelve members:

Members appointed by the CDU/CSU parliamentary group:

Volker Rühle	Former Federal Minister of Defence
Dr. Andreas Schockenhoff *	Member of the German Bundestag
Roderich Kiesewetter **	Member of the German Bundestag
Dr. Hans-Peter Uhl	Member of the German Bundestag
Prof. James W. Davis	Professor of International Relations, Executive Director of the Institute for Political Science, University of St. Gallen, Switzerland

¹ Bundestag Printed Paper 18/766.

² Minutes of Plenary Proceedings 18/23 of 20 March 2014, pp. 1854-1863.

³ The motion was based on the terms of the current German Federal Government's Coalition Agreement, cf. Shaping Germany's Future: Coalition Agreement between the CDU, CSU and SPD, 18th Electoral Term, 14 December 2013, pp. 123 f. Alternative motions tabled by the Left Party parliamentary group (Bundestag Printed Paper 18/839 neu) and the Alliance 90/The Greens parliamentary group (Bundestag Printed Paper 18/775) were rejected.

Prof. Georg Nolte	Professor for Public Law, Public International Law and European Law, Faculty of Law, Humboldt University, Berlin
Prof. Matthias Herdegen	Director of the Institute of International Law and Institute for Public Law, University of Bonn
Lieutenant General (ret.) Rainer Glatz	Former Commander, Joint Forces Operations Command

Members appointed by the SPD parliamentary group:

Walter Kolbow	Former Parliamentary State Secretary at the Federal Ministry of Defence
Niels Annen	Member of the German Bundestag
Rainer Arnold	Member of the German Bundestag
General (ret.) Wolfgang Schneiderhan	Former Chief of Staff, Bundeswehr
Prof. Wolfgang Zeh	Former Secretary-General of the German Bundestag, Supernumerary Professor, German University of Administrative Sciences Speyer

* Deceased 13 December 2014

** Roderich Kiesewetter, MdB was appointed as a member of the Commission to replace Dr. Andreas Schockenhoff by the letter of the parliamentary secretary of the CDU/CSU parliamentary group in the German Bundestag of 27 January 2015.

Former Federal Minister of Defence Volker Rühle was elected the Commission's chairman at the constituent meeting, while former Parliamentary State Secretary at the Federal Ministry of Defence Walter Kolbow was elected its deputy chairman.

The Commission was provided with a secretariat to support its work organisationally and technically. The Secretariat consisted of: Ministerial Counsellor Günther, Assistant Ministerial Counsellor Arndt, Second Secretary Fülbier, Administrative Officer Hahn, Ms Kalteis (up to 31 March 2015) and Ms Eslamizad (from 1 April 2015).

In addition to the Commission's members, the CDU/CSU parliamentary group appointed Mr Hans-Joachim Falenski and the SPD parliamentary group Mr Dirk Sawitzky as parliamentary group employees charged with assisting the Commission in its work, both of whom had the right to speak, but no right to vote. Furthermore, one representative from each of the following departments attended the Commission's meetings. These representatives also had the right to speak, but not the right to vote:

Office of the Federal President

Federal Chancellery

Federal Foreign Office

Federal Ministry of Defence

Federal Ministry of the Interior

Federal Ministry of Justice and Consumer Protection.

Following a recommendation made by the Commission, the chairman wrote letters to the Left Party and Alliance 90/The Greens parliamentary groups on 24 April 2014, offering them the opportunity to delegate one parliamentary group employee each to the Commission as observers so that they would be informed about the Commission's work. Both parliamentary groups rejected this offer. Irrespective of this, the chairman and deputy chairman met the executive committee of the Alliance 90/The Greens parliamentary group (17 December 2014), the executive committee of the Left Party parliamentary group (26 January 2015) and the Left Party parliamentary group (27 January 2015) for exchanges of ideas about the Commission's work.

Moreover, the chairman and deputy chairman informed the Federal Foreign Minister, Dr. Frank-Walter Steinmeier, MdB, the Federal Minister of Defence, Dr. Ursula von der Leyen, MdB, representatives of the leaderships of the CDU/CSU parliamentary group and the SPD parliamentary group, the chairman of the Committee on Foreign Affairs, Dr. Norbert Röttgen, MdB, the chairman of the Defence Committee, Dr. Hans-Peter Bartels, MdB, and the spokespersons of both committees about the Commission's work. Federal President Joachim Gauck was briefed on 23 April 2015 (Annex 26).

Programme of work

The Commission held a total of 14 meetings (Annex 4), of which:

- one was a public hearing,
- two were non-public hearings and seven non-public deliberative meetings, and
- four were external meetings.

Hearings

- | | |
|-------------------|--|
| 4 June 2014 | <p>Report from the German Federal Government about current progress in the military integration of European armed forces and future plans for transnational European capabilities and formations</p> <p>The following witnesses were heard:</p> <p><i>Minister of State Dr. Helge Braun</i> (Federal Chancellery)</p> <p><i>State Secretary Dr. Markus Ederer</i> (Federal Foreign Office)</p> <p><i>General Volker Wieker</i>, Chief of Staff, Bundeswehr (Federal Ministry of Defence)</p> <p><i>Parliamentary State Secretary Christian Lange</i> (Federal Ministry of Justice and Consumer Protection)</p> |
| 26 June 2014 | <p>Hearing on political/diplomatic, strategic, operational and structural aspects of future military integration within NATO and the EU, and their repercussions for German practice with regard to mandates</p> <p>The following witnesses were heard:</p> <p><i>General Werner Freers</i> (Chief of Staff, Supreme Headquarters Allied Powers Europe (SHAPE), Mons, Belgium)</p> <p><i>Ambassador Martin Erdmann</i> (Permanent Representative of the Federal Republic of Germany on the North Atlantic Council, Brussels)</p> <p><i>Rear Admiral Jürgen Ehle</i> (Chairman of the European Union Military Committee Working Group)</p> <p><i>Lieutenant General Heinrich Brauß</i> (Assistant Secretary General for Defence Policy and Planning, NATO International Staff, Brussels)</p> <p><i>General (ret.) James L. Jones</i> (former Supreme Allied Commander Europe and National Security Advisor of the United States of America, Washington D.C.)</p> <p><i>Jean-Claude Mallet</i> (Special Advisor to the French Minister of Defence, Paris)</p> <p><i>Joep Wijnands</i> (Director of the Security Policy Department, Netherlands Ministry of Foreign Affairs, The Hague)</p> |
| 11 September 2014 | <p>Public hearing on the progress of military integration at the NATO and EU levels, the developments anticipated in this field and their repercussions for the German Parliamentary Participation Act</p> <p>The following witnesses were heard:</p> |

Dominique David (French Institute of International Relations (Ifri), Paris)
Dr. Markus Kaim (German Institute for International and Security Affairs (SWP), Berlin)
Winfried Nachtwei (former Member of the German Bundestag)
Prof. Johannes Varwick (Martin Luther University Halle-Wittenberg)
Prof. Wolfgang Wagner (VU University Amsterdam)

External meetings

8/9 July 2014 Discussions at the European Air Transport Command (EATC), Eindhoven (Netherlands), the NATO Allied Joint Force Command Brunssum (Netherlands) and the NATO Early Warning and Control Force, Geilenkirchen

12 November 2014 Discussions at the Bundeswehr Joint Forces Operations Command, Geltow (Potsdam) on questions relating to the wording of mandates and the maximum numbers of personnel allowed by mandates

11 December 2014 Discussions with the Commander and Chief of Staff of the Multinational Corps Northeast on the Corps' mandate and current functions at Stettin

21/22 January 2015 Discussions with ambassadors and military representatives from NATO and the EU on the progress of military integration, and further developments in security and defence policy anticipated at the NATO and EU levels (Annexes 22 and 23)

Working groups

Two working groups were set up to prepare the proposals made by the Commission and conducted preparatory deliberative meetings. They consisted of the following Commission members:

Working Group on the Constitutional Framework, the Definition of 'Deployment' and Staff Units:

Former Parliamentary State Secretary Walter Kolbow, Prof. James W. Davis, Prof. Matthias Herdegen, Prof. Georg Nolte, Dr. Hans-Peter Uhl, MdB, Prof. Wolfgang Zeh, Lieutenant General (ret.) Rainer Glatz, General (ret.) Wolfgang Schneiderhan

Working Group on Special Forces Command (KSK):

Lieutenant General (ret.) Rainer Glatz, General (ret.) Wolfgang Schneiderhan

Delegation to New York:

A delegation travelled to the United Nations in New York from 27 to 31 October 2014. It gathered information about the political processes followed for the mandating of peacekeeping missions at the United Nations level, the developments anticipated in this field and the expectations of Germany in this regard.

Provision of information for the public

Apart from the public hearing, the Commission provided information about its work in press briefings following the Commission meetings on 4 and 26 June 2014. In addition to this, representatives of the press and the media had the opportunity to accompany the Commission when it travelled to Eindhoven, Brunssum and Geilenkirchen for external meetings.

Part Two – The current situation

1. Introduction

The Framework Nations Concept introduced by Germany has drawn greater attention to the discussion about progressive Alliance integration within NATO and the EU. This is associated with the question of how the tried-and-tested instrument of constitutive parliamentary participation in decisions about the deployment of German armed forces can be safeguarded within the current parameters.

The present report initially looks at the reasons for, and tendencies in, the development of progressive Alliance integration. It then discusses why the creation of structures characterised by a division of labour presupposes Germany's partners have confidence in the politically assured availability of these capabilities. Subsequently, the connections between Alliance integration, the politically assured availability of capabilities and parliamentary participation are illuminated in two separate sections. Section 3 analyses the impacts Alliance integration is having on parliamentary rights. Following this, Section 4 gives an analysis of the experience of parliamentary participation that has been gained to date, and the areas of tension between parliamentary participation and progressive Alliance integration.

Finally, progressive Alliance integration is not only having impacts within NATO and the EU. It is also affecting the United Nations, in particular the European states' ability to make contributions to peace missions and respond to the United Nations' changing requirements. Section 5 is devoted to the discussion of these issues.

2. Progressive Alliance integration and the growing diversity of tasks

2.1. Reasons for progressive Alliance integration

Ever since it was created, the Bundeswehr's integration into NATO has been a component of German security policy that has been vital to the Federal Republic of Germany's identity. From the very beginning, this has been manifested not least in the close German involvement in NATO's command structure.⁴ This integration into NATO has been driven by the political determination of all Germany's Federal Governments and the parliamentary groups in the Bundestag that have supported them to view the constitutional possibility of integration into a system of mutual collective security (Article 24 German Basic Law) as a permanent task, the performance of which is to be adapted to changing parameters.

In addition to this, since the Treaty of Maastricht there has been a process of integration into the European Union with its Common Security and Defence Policy, the constitutional foundation for which is the state goal of establishing a united Europe as set out in Article 23 of the Basic Law.

It will therefore be consistent with this pro-integration attitude on Germany's part to exploit the potential of progressive Alliance integration in future as well.

Germany continues to be particularly dependent on systems of collective security and their ability to act because, with the exception of evacuation missions, Germany traditionally only applies military means within the framework provided by such systems.

One important reason for progressive Alliance integration is the tension between growing security challenges, on the one hand, and limited financial resources, on the other hand.

The parameters of security policy allow a diversity of crisis scenarios to be identified, the priorities for which can be described in terms of the functions of collective defence and crisis intervention, including crisis prevention and post-crisis rehabilitation. These demand a broad spectrum of modern capabilities, which require significant financial resources.⁵ Furthermore, a tendency towards an altered distribution of the workload within the Alliance is becoming apparent because the USA has been expressing its expectation that NATO's European member states will bear a greater share of the burdens involved in maintaining security in Europe.

⁴ State Secretary Ederer, Annex 6, p. 6.

⁵ State Secretary Ederer, Annex 6, pp. 3 ff.; General Wieker, Annex 8, p. 3.

On the funding side, it is not to be expected that the European states' defence budgets will grow so strongly that the modernisation of their armed forces could be financed without exploiting the synergy effects generated by Alliance integration. Rather, redundant capacities will have to be cut back, not least in order to avoid the capability gaps that would threaten to open up if planning processes were to be uncoordinated. Given that this is the case, it will only be possible to cope with, in particular, the development of technologically complex capabilities such as the Alliance Ground Surveillance (AGS) system if they are managed jointly. Furthermore, joint defence planning and procurement are desirable if the interoperability of Europe's armed forces is to be improved.

The alternative to progressive Alliance integration would be the renationalisation of Europe's armed forces. However, there would be no hope of financing a process of this kind, and no one is seriously raising it as a political demand.

Finally, progressive Alliance integration also has a peace-keeping effect. The economic and political integration seen in Europe has made crucial contributions to the continent's peaceful development since the end of the Second World War. Progressive military integration will round this off because states with armed forces organised on a division-of-labour basis will be unable to wage war on each other for military reasons as well.

2.2. Concepts and types of structure characterised by a division of labour

2.2.1. The formation of capability clusters under the Framework Nations Concept

In 2013, Germany put forward what is known as the Framework Nations Concept, under which smaller armed forces contribute specific capabilities to a cooperation with a framework nation.

The goal of the cooperation is to form coherent military capability packages (known as clusters). The cooperation involves planning, the training of the participating servicemen and women and, finally, the deployment of the cluster. The framework nation provides the organisational framework for the cooperation and important key capabilities ('enablers' as they are known) that are indispensable for the conduct of military operations. These enablers include, in particular, command and liaison, reconnaissance, strategic transport and logistics, and high-quality medical care. For the framework nation, the cooperation offers the advantage that, in particular, the cluster's sustainability is enhanced by its partners' contributions. The national contributions can no longer be taken away from the clusters formed in this way without endangering the operational readiness of the overall package. This is true especially for the framework nation.⁶

The Framework Nations Concept therefore provides an organisational structure for better coordinated, more detailed European defence planning.⁷ Furthermore, it will be possible for the interoperability of the armed forces in Europe to be developed to a greater degree on the foundation of joint planning.⁸

A comparable fundamental idea also formed the basis for the integration of the Dutch 11 Airmobile Brigade into the German Rapid Response Forces Division undertaken in 2014.⁹

2.2.2. NATO's collective capabilities

Together with the multinational forces of the NATO force structure, the staff units and headquarters of NATO's command structure form the backbone of the missions conducted under the auspices of NATO.

At the top of NATO's military command structure stands Allied Command Operations with the Supreme Headquarters Allied Powers Europe (SHAPE) under the command of NATO's Supreme Allied Commander Europe (SACEUR). Beneath SHAPE, there are the two Joint Forces Commands at Brunssum and Naples, both of which have further multinationally manned operational and tactical staff units and headquarters that are subordinate to them.¹⁰

⁶ Lieutenant General Brauß, Annex 10, pp. 3 f.

⁷ On this whole issue, cf. also Claudia Major/Christian Mölling, *The Framework Nations Concept*, SWP Comments 52, December 2014.

⁸ On this task, see Lieutenant General Brauß, Annex 10, p. 2.

⁹ Cf. the information provided to the Dutch Parliament by the Netherlands Ministry of Defence, online: <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2014/05/28/kamerbrief-over-integratie-luchtmobiele-brigade.html> (2 May 2015).

¹⁰ Cf. Annex 24, p. 2.

Overall, the proportion of personnel in the NATO command structure provided by Germany is approximately 15 per cent. This is in line with the size of Germany's financial contribution to NATO.¹¹ It would not be possible to compensate adequately for the recall of such a large number of servicewomen and men in the short term. But even the loss of a smaller proportion of the command structure's personnel could tangibly disrupt meticulously rehearsed teams and processes, and result in the quality of its work suffering to a considerable extent.

There are also significant dependencies at the level of the NATO force structure, which supports the command structure in the fulfilment of its functions. For instance, the staffs of the multinational corps are integrated into a multiannual rotation plan under which they go through a training and certification phase before being at readiness for a certain period of time.¹²

Furthermore, NATO's command structure is assisted by joint reconnaissance and surveillance capabilities.

Since the end of the 1970s, NATO has possessed an airborne system for airspace reconnaissance, monitoring, and the command and control of air forces, the Airborne Early Warning and Control System (AWACS). This is made up of two components, a multinational component owned and operated by NATO at Geilenkirchen and a British component based at Waddington (UK).¹³

Germany provides approximately one third of the personnel who are serving with the multinational AWACS component. It would not be feasible for other members of the Alliance to compensate for the loss of these German personnel over the short term, in particular the aircraft crews, for which highly specialised personnel are required. If the German crews were withdrawn from the aircraft, the AWACS component might not immediately cease to function. However, the component's sustainability would be significantly constrained within a short period of time so that, *de facto*, it would hardly be possible to undertake operations conceived over the medium term without German participation.

In future, comparable dependencies will be evident in the planned Alliance Ground Surveillance (AGS) system, the procurement of which was decided on during the 2012 NATO summit at Chicago. This system is to be stationed under SACEUR command at Sigonella (Italy) in 2016. In particular, the withdrawal of one of the large participating states (United States of America, Germany, Italy) would significantly constrain the system's sustainability.

In addition to this, NATO's command structure would not be able to deliver its deployment planning and command capability without the resources offered by AWACS and AGS. Allied reconnaissance and surveillance capabilities therefore play a decisive part in the successful conduct of any operation.¹⁴

2.2.3. Specialisation of capabilities

One important example of a division-of-labour structure in the form of a specialised national capability is the Patriot tactical missile defence system, which only a few Alliance partners possess. If such specialised capabilities are to be sustainable over the long term, NATO will have to rely on these states making their capabilities available when a deployment is carried out.

There are further examples of operationally relevant capabilities that only a few Alliance partners possess, such as maritime patrol aircraft and the capacity to provide all aspects of a sustainable deployable operating base. Military logistical forces are also among the high-value resources that tend to be in short supply.¹⁵ The decision not to operate battle tanks announced by the Netherlands in 2011 can be understood as a kind of reverse specialisation.

There could also be multinationally procured and maintained specialised capabilities in future, for instance missile defence formations equipped with MEADS.¹⁶

¹¹ BMVg, Answers to the Catalogue of Questions, Annex 9, p. 8.

¹² General Freers, Annex 13, p. 6.

¹³ The component at Geilenkirchen consists of 17 AWACS aircraft, the one at Waddington seven.

¹⁴ Ekkehard Brose, *Parlamentsarmee und Bündnisfähigkeit*, SWP-Studie S 18/2013, 2013, p. 10 (English translation: *When Germany Sends Troops Abroad: The case for a limited reform of the Parliamentary Participation Act*, SWP Research Paper 9, September 2013).

¹⁵ BMVg, Answers to the Catalogue of Questions, Annex 9, p. 6.

¹⁶ State Secretary Ederer, Annex 6, p. 7.

The national headquarters assigned to the EU, to which the EU has recourse for the planning and command of deployments, represent one important example of multinational specialised capabilities.¹⁷ When one of these headquarters is activated, its basic capability is reinforced with multinational personnel according to a politically agreed template (what is known as the EU Headquarters Manning Guide).

One headquarters that is already strongly multinationally oriented in routine operations is the Multinational Joint Headquarters at Ulm, which is able to perform various command functions for deployments led by the EU, NATO and the United Nations. It can be used as a deployable force headquarters during CSDP missions, the command for an EU Battlegroup or the core of a strategic headquarters. Under NATO's defence planning, the Multinational Joint Headquarters is intended to function as a joint multiservice headquarters with an operational command and control role as of 2018.

2.2.4. Pooling of capabilities

Pooling is defined as the bundling of national capabilities under a joint command. The aim is to exploit the joint command and utilisation of capacities to achieve synergy effects. Pooling arrangements are characterised by the fact that each nation retains full access to the capabilities it has made available to the pool.

The most important example of capabilities being pooled is the European Air Transport Command (EATC) established in 2010 at Eindhoven. The EATC is a multinational staff unit that was founded by several European air forces and currently unites seven participating states.¹⁸ The EATC's mission covers three areas of activity, air transport, air-to-air refuelling and aeromedical evacuation. The participating states currently make approximately 180 aircraft available for these operations. Deployment-related synergies are generated in particular thanks to the avoidance of empty flights and better utilisation of aircraft capacities.¹⁹

If a partner nation's transport capacities were withdrawn from the EATC or barred from taking part in a particular deployment, this would initially result above all in it no longer being possible for the synergies generated by joint operations planning to be exploited. However, the operability of other NATO countries' transport capacities would not be immediately compromised. There would also be limited options to mitigate the problems caused if a state did not wish to support a particular deployment with transport capacities but, in exchange, took on more flights in other areas.²⁰

However, on account of the better utilisation of capacities, the systematic continuation of the pooling approach will lead to capacities that are no longer required being cut back over the longer term, especially if existing capacities have to be modernised. Then, forms of compensation of the type discussed above will no longer be feasible to the same extent.

For instance, it is anticipated that other European countries will become more dependent on Germany when the A 400M is introduced because Germany will provide 40 of the 93 aircraft. From this perspective, cooperation in the form of pooling tends to entail specialisation, and this is to be expected in future. Much the same is true of the future pool of maritime patrol aircraft that is currently being planned, since these assets tend to be in short supply today.

2.2.5. Readiness commitments for rapid response forces

In 2003, NATO set up the NATO Response Force (NRF) as a rapidly deployable crisis response instrument. The NRF is made up of national operational forces that are committed for a period of twelve months in each case. The forces contributed by the individual Alliance partners are coordinated by multinational conferences under what is known as the Long Term Rotation Plan. Variable response times of from five to 30 days are foreseen for the

¹⁷ These include the headquarters at Northwood (UK), Potsdam (with personnel from MN JHQ Ulm), Mont Valérien (France), Rome (Italy) and Larissa (Greece). In addition to this, Germany is in favour of a strategic EU headquarters being built up at Brussels in order to put in place a permanent civilian-military planning and command capability for the EU, cf. Commission Printed Paper 18(26)010, p. 12.

¹⁸ Apart from Germany, the participants are Belgium, the Netherlands, Luxembourg, France, Spain and Italy. The EATC is founded on a technical agreement between the Federal Ministry of Defence and the defence ministries of Germany's partner states. Preparations are under way for this agreement to be replaced with a treaty under international law.

¹⁹ Further economies of scale are achieved, for example, by joint training and follow-on training, improved interoperability and the use of joint overflight clearances for the aircraft brought together in the pool.

²⁰ This is something that was done during Operation Unified Protector in Libya.

various components of the NRF. To date, what is known as the Immediate Response Force, an operational force made up of approximately 13,000 personnel, has been functioning at the highest level of readiness.

In 2014, NATO decided at its Wales summit to set up a Very High Readiness Joint Task Force (VJTF), which is a component of the NRF and is to be fully operational in 2017. It will be possible for it to be deployed for both collective defence and crisis management. The outlines of the VJTF's land component were finalised in February 2015. The lead roles in the VJTF will be assumed by the framework nations Germany, the UK, France, Italy, Poland and Spain. It is to be possible for the specific VJTF forces provided by the framework nations to be deployed within a few days.²¹ Achieving this level of operational readiness will require a tremendous amount of training and a great many joint exercises by the participating states. In view of the amount of time these activities will take, it will not be possible to compensate for the absence of assigned VJTF forces when a deployment is conducted. NATO's ability to act rapidly will therefore depend decisively on the forces pledged when the VJTF was planned being reliably available.

From a German perspective, the staff of the 1 German/Netherlands Corps at Münster and the Multinational Corps Northeast at Stettin, whose level of readiness was raised in 2014, will play an important role in the leadership of the VJTF.

The Battlegroups, as they are known, whose establishment was decided on in 2004, constitute the EU's crisis response instrument. As a rule, they are made up of forces of battalion size, and a control and command element. The multinationally manned EU Battlegroups are assembled for periods of six months for missions within a comparably narrowly defined range of tasks. The deployment of an EU Battlegroup must primarily be financed by the troop-contributing states, and only a small proportion is funded commonly using the ATHENA mechanism.²²

In view of the modest manpower at the EU Battlegroups' disposal, their lack of spare capacities and the extensive programme of multinational exercises, including certification, it would hardly be possible for the contributions pledged to be compensated for if they were to be withdrawn.

To date, the EU Battlegroups have not taken part in any deployments. The reasons for this lie, among other things, in their limited spectrum of tasks, which does not always correlate with practical requirements, and the issue of funding. The parliamentary participation required for the deployment of the German elements in an EU Battlegroup is not regarded as an obstacle.²³ At the moment, a review process is taking place at the EU level that has the goal of enhancing the EU Battlegroups' deployability.²⁴ The 2013 Battlegroup made up of the UK, Sweden, the Netherlands, Latvia and Lithuania organised a political preparatory phase in order to coordinate possible deployment scenarios for the Battlegroup.²⁵

2.2.6. Multinational cooperation at the level of the NATO force structure

There are a number of headquarters and formations at the level of the NATO force structure that have been established on the basis of bilateral or multinational treaties and have been certified by NATO. They include the Eurocorps at Strasbourg, the 1 German/Netherlands Corps at Münster, the Multinational Corps Northeast at Stettin and the French-German Brigade with its staff at Müllheim, which has been under the direct operational control of the Eurocorps since 1993.

These forces are integrated above the battalion level, which makes it easier for the nation states to call on their own military elements. However, there are mutual dependencies within the corps staffs.

In practice, the French-German Brigade has only been sent on a small number of joint deployments to date. These have included, in particular, deployments undertaken with SFOR (1996/97, 2000 and 2002/2003) and ISAF (2004/2005). Since April 2014, parts of the Brigade have been deployed on EUTM Mali.²⁶

There are prospects for the stronger integration of multinational units, in particular the more effective coordination of national planning cycles. As far as the French-German Brigade is concerned, these cycles are to be synchronised

²¹ Cf., on this issue, the Answer of the German Federal Government to the Minor Interpellation Tabled by the Alliance 90/The Greens Parliamentary Group, Bundestag Printed Paper 18/4128.

²² Council Decision (CFSP) 2015/528 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing Decision 2011/871/CFSP, *OJ L* 84/39, 2015.

²³ BMVg, Answers to the Catalogue of Questions, Annex 9, p. 15; Rear Admiral Ehle, Annex 11, pp. 6 f.

²⁴ Rear Admiral Ehle, Annex 11, p. 5.

²⁵ Margriet Drent *et al.*, *Defence Cooperation in Clusters: Identifying the Next Steps*, Clingendael report, October 2014, pp. 12 f.

²⁶ BMVg, Answers to the Catalogue of Questions, Annex 9, pp. 14 f.

as of the current year. Furthermore, there is still potential to improve the compatibility of the individual national deployment mandates and rules of engagement.²⁷

2.3. Politically assured availability as a prerequisite for Alliance integration

The decision to cut particular capabilities from national armed forces in the course of progressive Alliance integration and rely on joint capabilities in future is increasing the Alliance partners' dependence on each other significantly. This is true both for states that have decided to completely phase out certain capabilities and states that supply their capabilities as contributions to a composite formation, but cannot use them without the other participants' contributions. This presupposes a willingness to exploit the synergies generated by joint action and not to optimise countries' ability to take national action under any given circumstances. However, the members of the Alliance will only be prepared to do this if they are certain that when a deployment is conducted joint capabilities will not be compromised or blocked from action unexpectedly as a result of decisions to withdraw national capabilities. This is to be seen, not least, against the background that if the smaller members of the Alliance find their contributions blocked from action, this would not only reduce their ability to take military measures, but also their political influence.²⁸

In consequence, Alliance members' assessment of conceivable security cooperation partners' reliability influences not only their fundamental willingness to engage in Alliance integration but, to a significant extent, also the decisions they take when selecting the partners they wish to cooperate with on concrete projects to develop composite military capabilities.²⁹

With this in mind, Germany's Permanent Representative on the North Atlantic Council, Ambassador Erdmann, emphasised that the 'integration of armed forces and assured availability of capabilities are therefore two sides of one and the same coin.'³⁰ Furthermore, expert witnesses heard by the Commission pointed out that confidence in the availability of capabilities organised on a division-of-labour basis is fostered especially by reliability and trustworthiness at the practical level.³¹ As far as the Commission is aware, however, no NATO or EU member state is currently prepared to underpin this clear political expectation by making commitments under international law and so limiting its own sovereignty in a legal sense as well. For this reason, the experience gained with the extant allied capabilities is and will remain a crucial factor in the further development of Alliance integration.

The national sovereignty reservations that call reliable availability into question exhibit a diversity of forms and are not limited to parliamentary involvement in decisions about deployments. For example, the assured availability of a capability can also be compromised by national caveats that affect the practical usefulness of the capability under particular deployment scenarios.

Apart from its repercussions for their ability to take sovereign action, progressive Alliance integration changes the actual framework within which countries take decisions about the deployment of their own armed forces. Here, reliable availability is predicated on the Alliance partners not approaching what formally continue to be national decisions about the deployment of division-of-labour-based capabilities exclusively from national perspectives, but being prepared to adopt a European perspective. This too presupposes the acceptance of an understanding of sovereignty that gives greater weight to the advantages of common action than the disadvantages caused by the abandonment of supposed national freedom of action.

One factor in the Alliance members' confidence in the assured availability of a capability organised on a division-of-labour basis is therefore their belief that the other partners are prepared to adopt such a European perspective in their national political decision-making processes.

2.4. Conceptualisation of multilateral composite military capabilities

The military capabilities that have been, and will in future be, created in the course of progressive Alliance integration are founded on a division of labour that is entered into in the specific expectation that the partners will

²⁷ This issue is illuminated by General Wieker using the example of the French-German Brigade, Annex 8, pp. 10 f.

²⁸ Lieutenant General Brauß, Annex 10, p. 4.

²⁹ Lieutenant General Brauß, Annex 10, p. 4.

³⁰ Ambassador Erdmann, Annex 12, p. 9.

³¹ General Freers, Annex 13, pp. 4 ff.; Lieutenant General Brauß, Annex 10, p. 6.

actually make their individual contributions available if a deployment is decided on by consensus. This distinguishes the dependencies accepted under Alliance integration qualitatively from the fact that international organisations are generally reliant on the contributions of their Member States in order to be able to fulfil the tasks assigned to them.

The Commission proposes that the military capabilities created under progressive Alliance integration, which require particular political trust on account of the dependencies with which they are associated, be referred to as ‘multilateral composite military capabilities’ (German: *multilaterale militärische Verbundfähigkeiten*, French: *capacités militaires multilatérales composites*).

A ‘composite formation’ is a structure based on a division of labour in which the individual elements cannot be separated from one another without damaging the whole and its constituent parts. In its entirety, therefore, a composite formation generates added value compared to the sum of its parts. At the same time, it is clear from the term ‘composite capability’ that the national contributions to a composite formation remain identifiable as such.

Composite capabilities are individual capabilities that are formed by the combined contributions of different partners. However, they also include structures in which various capabilities are brought together into a cluster and in this sense form a composite formation.³² The division of labour that is characteristic of a composite capability can therefore lie at the level of the individual capability, at the level of a capability cluster or at the level of the Alliance as a whole.

Composite capabilities are multilateral because they are based on a multilateral division of labour in the context of NATO or the EU. In consequence, they not only include multinationally manned and operated structures, but also specialised national capabilities. Such national capabilities can also be of critical significance for the functioning of the Alliance and therefore part of the division of labour in a multilateral composite formation.

3. Progressive Alliance integration and parliamentary rights

Progressive Alliance integration and the *de facto* dependencies associated with it not only throw up the question of the reliable availability of multilateral composite military capabilities. From parliament’s point of view, the Alliance partners’ justified concern about this has its counterpart in the question of the extent to which the dependencies created restrict the Bundestag’s actual discretionary powers and how parliamentary rights can be safeguarded under these circumstances.

Hitherto, the requirement of parliamentary approval has had the function of protecting parliamentary rights against further conceptual developments at the Alliance level and balancing out the division of powers.³³ Given the need for concrete deployments of the armed forces to be approved, further conceptual developments to NATO’s mission spectrum, for instance in the field of crisis management, have also been hedged in. If it is to have any practical effectiveness, an amended NATO strategic concept will require further input from the national parliaments.

Looked at from a formal, legal point of view, the Bundestag’s right of codecision about the deployment of armed forces remains unaffected by the greater integration of capabilities in alliances. With this in mind, the Federal Constitutional Court has emphasised that, as far as the EU is concerned, the requirement of parliamentary approval when armed forces are deployed is non-transferable and not open to integration.³⁴ However, the further development of the strategic foundations and/or the ‘integration programme’³⁵ differs from greater integration through the establishment of multilateral composite military capabilities, since in the latter case the repercussions of a national decision for the Alliance partners’ ability to act are considerably further-reaching.

The ability to honour obligations within the Alliance and the solidarity of the Alliance’s members weigh particularly heavily at the moment when a decision is taken about an armed deployment of a multilateral composite capability. Accordingly, the options for action that realistically exist at the point in time when such a deployment is decided upon are already considerably restricted. In particular, it is no longer possible to assign more spare

³² As is the case under the Framework Nations Concept, for instance; see section 2.2.1. above, p. 13.

³³ BVerfGE 121, 135 (159 f.) – *AWACS Turkey* (English translation, online: http://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2008/05/es20080507_2bve000103en.html). On this issue, see Heiko Sauer, ‘Das Verfassungsrecht der kollektiven Sicherheit’, in: *Linien der Rechtsprechung des Bundesverfassungsgerichts*, 2009, pp. 585, 612 ff.

³⁴ BVerfGE 123, 267 (361) – *Treaty of Lisbon* (English translation, online: http://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2009/06/es20090630_2bve000208en.html).

³⁵ BVerfGE 104, 151 (209 f.) – *NATO’s Strategic Concept* (English translation, online: http://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2001/11/es20011122_2bve000699en.html).

capacities to the immediately imminent mission and so equip a multilateral composite capability in such a way that national room for manoeuvre remains preserved to a greater degree.

Against this background, the Bundestag is confronted with the challenge of determining the right point in time for practically effective participation in the process of progressive Alliance integration. Structurally, this challenge is already familiar from the debate about Europeanisation. The Federal Constitutional Court demands that the Bundestag be provided with sufficient information when concrete deployments are being planned as well.³⁶ By contrast, there is currently no formalised obligation to furnish information, especially about the creation of new multilateral composite military capabilities. In particular, furnishing information in good time serves the aim of implementing adjustments to progressive Alliance integration that may be required with the least possible impacts on the functioning of the Alliance. If it participated in this procedure in good time, the Bundestag could, for example, seek to ensure that the degree of mutual dependence in a multilateral military composite capability was reduced and the budgetary resources required for this were made available.

Another challenge is faced when determining suitable procedures with which the development of the dependencies associated with Alliance integration can be overseen. This should pursue the aim of conveying lasting knowledge about these relationships so that the Bundestag continues to be able to fulfil its responsibilities in an informed manner.

4. Politically assured availability of capabilities and parliamentary participation

4.1. The political practice of collaborative decision-making by parliament and the government

In a parliamentary democracy, the government usually enjoys the confidence of the majority in parliament. This implies that, as a general rule, it is able to obtain approval for deployments of the armed forces that it believes to be necessary.

This theory is also confirmed by parliamentary practice. Since the decision handed down by the Federal Constitutional Court in 1994, the German Federal Government has forwarded 138 requests for the deployment of armed forces, which the Bundestag has approved without exception.³⁷ Numerous mandates have been passed with broad support that has gone beyond the government parliamentary groups at the time. This is indicative of a high degree of reliability that has also been maintained from one electoral term to the next.

From a comparative perspective, this enduring positive attitude is not a matter of course, but a manifestation of the fact that Germany's ability to honour obligations within the Alliance and its solidarity with its Alliance partners possess great weight in the Bundestag.

From a comparative perspective, it is also possible to point to examples of how a lack of parliamentary participation can be accompanied by greater volatility in foreign policy action.³⁸

4.1.1. Scheduling of parliamentary deliberations

The amount of time required for parliamentary participation does not impose any restrictions on the assured availability of multilateral composite capabilities. Firstly, the practice followed to date underlines that the Bundestag is able to take decisions expeditiously and, when it does so, is in a position to adjust its schedule in order to take account of the requirements of the situation it faces. Secondly, the German Federal Government's power to take urgent decisions safeguards its ability to honour obligations within the Alliance in circumstances where immediate action is called for, but exceptionally the Bundestag is unable to conduct deliberations and take a decision in good time.

The parliamentary practice followed since the Parliamentary Participation Act entered into force has usually seen decisions about requests forwarded by the German Federal Government being taken within two sitting weeks.³⁹

³⁶ *BVerfGE* 121, 135 (169) – AWACS Turkey.

³⁷ Since the Parliamentary Participation Act entered into force on 24 March 2005, the Bundestag has approved 100 requests (as at 22 May 2015). Four requests have been approved using the simplified procedure. See Annex 25 for a list of the procedures conducted.

³⁸ Wolfgang Wagner, Minutes of the Public Meeting on 11 September 2014, p. 46.

³⁹ 93 of the 96 requests deliberated on (96.9%) were dealt with within two sitting weeks.

There have been exceptions to this rule, in particular the deliberations on the extension of ISAF mandates. This appears to have been appropriate to the situation because it was a complex mission and there was no particular urgency.

This finding is also confirmed by a look at the duration of the parliamentary procedure between the first reading and the final vote, and the total duration of the procedure, i.e. the period of time that elapses between the forwarding of the request and the adoption of the decision.⁴⁰

Conversely, not a few examples illustrate how the Bundestag is also able to adopt a mandate within a few days in urgent cases. In 21 procedures (21.9 per cent), for instance, the deliberations took place within one sitting week. In a few instances, the deliberations were even concluded in a single sitting.⁴¹

Furthermore, quick parliamentary decision-making that is appropriate to the requirements of the situation in question is ensured by provisions in the Rules of Procedure of the German Bundestag. For instance, when decisions are being taken on requests that the German Federal Government has declared urgent, it is possible to dispense with the time periods that are otherwise usually scheduled between the submission of the recommendation for a decision by the committee and the final reading in parliament, provided this is supported by a simple majority (Rule 81(1) Rules of Procedure of the German Bundestag (GO-BT)).

The formulation of a mandate by the German Federal Government often takes much longer than the parliamentary procedure, in particular when more complex missions are at stake. By contrast, it is often possible to forward the request more rapidly when it comes to deployments of individual multilateral composite capabilities because the main benchmarks for a German contribution have already been specified in advance and the request can be prepared accordingly. The same applies for German contributions to crisis response forces, for instance as part of EU Battlegroups or the NATO Response Force (NRF).

Finally, the German Federal Government's powers in urgent cases ensure that the time required for parliamentary participation does not throw up any problems for the assured availability of capabilities. In its decision of principle handed down in 1994, the Federal Constitutional Court underlined that Germany's ability to honour obligations within the Alliance had to be taken into consideration in the configuration of the constitutive requirement of parliamentary approval. In particular, it deduced from this that the Federal Government possessed a power to take urgent decisions. It argued that, 'in the event of imminent danger, it is entitled to decide on the deployment of the armed forces on a preliminary basis, to participate in relevant decisions within alliances or international organisations without specific, prior authorisation from parliament, and to implement such decisions provisionally.'⁴² The Court ruled that the Bundestag should then deliberate on the matter promptly.

Accordingly, Section 5(1) of the Parliamentary Participation Act states, among other things, that prior approval by the Bundestag is not required for deployments when there is imminent danger and no postponement can be tolerated. The Bundestag's *ex-post* approval for the request must then be sought without delay (Section 5(3) ParlBG). If the situation requires immediate action, the German Federal Government can therefore authorise a deployment in the European Council and/or the North Atlantic Council without previously asking the Bundestag for its approval. As far as the assessment of urgency is concerned, the Federal Government initially enjoys considerable scope for judgement. This is hedged in politically by the need to obtain *ex-post* approval. The Federal Constitutional Court also takes the Federal Government's ability to honour its obligations within the Alliance into consideration in a comparable fashion when it considers the granting of urgent legal remedies. Here, the Federal Government is accorded greater leeway in its assessments than during main actions.⁴³

4.1.2. Reliability and German non-participation in missions

As discussed above, the Bundestag's practice to date has been not to refuse approval for any request forwarded by the German Federal Government under the Parliamentary Participation Act. From the point of view of the

⁴⁰ In 53 of the 96 procedures that were deliberated on by the Bundestag, the parliamentary procedure took nine days or less between the first reading and the final vote; after 23 days, 94 procedures (97.9 per cent) had been concluded. In 56 of the total of 100 proceedings, 16 days or less passed between the request being forwarded and the decision; after 30 days, 92 proceedings had been concluded, cf. Annex 25, Table 2.

⁴¹ Annex 25, Table 2.

⁴² *BVerfGE* 90, 286 (388) – *Bundeswehr Deployments Abroad*.

⁴³ Andreas Paulus/Henrik Jacobs, 'Neuere Entwicklungen bei der Parlamentsbeteiligung für den Auslandseinsatz der Bundeswehr', *Die Friedens-Warte* 87 (2012) 2-3, pp. 23, 42. One practical example is the AWACS deployment over Turkey during the run up to the Iraq War in 2003. In this case, the Federal Constitutional Court refused to order a temporary injunction although it did not seem improbable that the applicants' rights had been violated and a violation of rights was also found in the main action.

Commission, this suggests that in practice the Federal Government is reliably in a position to obtain a majority for deployments that it feels to be necessary on security grounds and for reasons of alliance solidarity. Furthermore, with the vote of confidence (Article 68 German Basic Law), the Federal Government possesses a strong political instrument it can use to gain majorities for deployments, even when they have sparked controversy.

Irrespective of this, numerous expert witnesses and the German Federal Government report that the other members of the Alliance are not sure Germany will reliably contribute its elements to integrated capabilities such as AWACS when missions are decided on jointly within the Alliance. This uncertainty about Germany's reliability is likely to influence far-reaching strategic decisions in these countries concerning structured cooperation aimed at developing composite military capabilities. The Commission is of the opinion that this perception should be taken into consideration in the planning and oversight of progressive Alliance integration, irrespective of the extent to which it is objectively accurate.

The perceptions of the other Alliance members seem to have been influenced, in particular, by two cases in which German service personnel were withdrawn from the AWACS aircraft. Firstly, Germany did not initially participate in the deployment of AWACS aircraft as part of the ISAF mission in Afghanistan at the beginning of 2011. Secondly, AWACS crews were withdrawn when Germany refused to participate in the NATO mission Unified Protector in Libya in 2011. Even their subsequent compensatory participation in the AWACS deployment in Afghanistan was not enough to completely dispel the irritation caused by this behaviour.⁴⁴ The doubts have probably also been particularly grave because Germany's non-participation affected capabilities organised on a division-of-labour basis, which meant there was certainly no way of avoiding questions about the availability of future multilateral composite capabilities. However, the cases discussed above were not directly connected with parliamentary participation, but were both consequences of decisions taken by the German Federal Government. If the Federal Government does not forward a request for the approval of a deployment of the armed forces, the Bundestag is unable to take the initiative and call for such a deployment in its own right or even adopt a decision on the matter.

The sequence of events that led up to NATO's Libya mission throws light on this. The German Federal Government's scepticism about an armed deployment in Libya had already become clear in the course of the deliberations in the United Nations Security Council about the resolution that legitimated the use of military force. Following its abstention in the Security Council, the Federal Government would have easily exposed itself to the accusation of inconsistency if it had subsequently made German armed forces available to support this mission. Regardless of the question of parliamentary participation and the position of the Bundestag, the Federal Government had therefore resolved not to take part in the armed intervention in Libya.

As far as the initial failure to deploy AWACS crews to Afghanistan is concerned, the fact that the Bundestag approved the request that was subsequently forwarded after all can be seen as a sign that, in principle, the Bundestag is open to political considerations informed by the relationships within the Alliance and takes them into account. This also applies in particular when the initial mood suggests parliament will need to be convinced of a request's merits.

4.1.3. Non-application of the simplified procedure

The Parliamentary Participation Act provides for a simplified procedure for the approval of missions of minor scope and intensity (Section 4 ParlBG). Under this procedure, approval is deemed to be granted unless a parliamentary group or five per cent of the Members of the German Bundestag demand that the Bundestag debate the matter within seven days of the request's distribution as a printed paper.

In practice, just four mandates for the deployment of armed forces have received approval under the simplified procedure to date. In all these cases, the German Federal Government was requesting the extension of a mandate (Section 7 ParlBG).⁴⁵ In each of the two successful simplified procedures during the 16th electoral term, the Left Party parliamentary group delivered a declaration that it agreed to the request being dealt with by the simplified procedure, but this did not alter the fact that it opposed the substance of the request.⁴⁶ It was demanded that the

⁴⁴ See also Ekkehard Brose, p. 10.

⁴⁵ AMIS II, UNMIS II, AMIS IV and UNMIS V.

⁴⁶ The declaration was published separately for AMIS IV, see Annex 55 to Minutes of Plenary Proceedings 16/37, p. 3470 C; in the case of UNMIS V, the declaration was published with the announcement that approval had been granted using the simplified procedure, see Annex 3 to Minutes

Bundestag debate five further requests made using the simplified procedure.⁴⁷ In four of these procedures, the motion was referred to the committees responsible without debate.⁴⁸

No more requests for the approval of the deployment of the armed forces were forwarded using the simplified procedure from 2007 to mid-April 2015.⁴⁹ The background to this was, among other things, that the subsequent deputy chairwoman of the Party of Democratic Socialism (PDS) parliamentary group had previously declared during the deliberations on the Parliamentary Participation Act that the PDS parliamentary group would demand the Bundestag debate the substance of every request.⁵⁰ Furthermore, on the basis of informal soundings with the parliamentary groups in the German Bundestag, the German Federal Government felt it was foreseeable that there would usually be demands for the Bundestag to debate requests.⁵¹

This fundamental opposition to the application of the simplified procedure can result in deployments of minor scope and intensity not being carried out if the conduct of a full parliamentary procedure is regarded as disproportionate effort. The German Federal Government mentioned a small number of individual cases in which it had decided not to request a mandate for this reason. These cases related, in particular, to inquiries made by the United Nations at short notice.⁵²

Furthermore, the *de facto* failure to use procedural mechanisms provided for by statute to facilitate the handling of very minor deployments may contribute to the other Alliance members' impression that the Bundestag's participation is cumbersome and time-consuming.

As far as the impacts of the simplified procedure are concerned, it may initially be noted that the time savings it achieves remain modest. Numerous examples can be found of mandates that were adopted under the regular procedure within the amount of time taken by the simplified procedure.⁵³ However, it is possible for the simplified procedure to speed up the approval process during longer periods when no sittings of the Bundestag are held, the summer recess for instance.

The Commission was not aware of any indications that the application of the simplified procedure significantly facilitates the formulation of the request for approval by the German Federal Government. The grounds for the requests forwarded by the Federal Government using the simplified procedure were not set out in significantly less depth. This should hardly be surprising because under the simplified procedure the Federal Government has no opportunities to provide further grounds for the request it has forwarded. In consequence, the request must already contain all the information required to convince the Bundestag when it is forwarded.

The principle way in which the simplified procedure facilitates the granting of approval therefore lies in the fact that the Bundestag does not spend so much of the time at its disposal for deliberations, a scarce resource, on deployments of minor scope and intensity or routine mandate extensions. In this respect, the approval process is facilitated not least because there is consensus among the parliamentary groups represented in the Bundestag that a request does not require detailed deliberation.

4.1.4. Procedural practice of parliamentary deliberations

As a rule, the requests forwarded under the Parliamentary Participation Act are dealt with by the Bundestag in two readings. Once the first reading has been concluded, the request is referred to the committees responsible. This standard practice has been followed in about 86 per cent of the procedures that have come before parliament. There have merely been twelve procedures, which all took place in the 15th and 16th electoral terms, in which use was made of the option to decide on the referral to the committees without debate. Of these cases, four related

of Plenary Proceedings 16/58, p. 5755. In the 15th electoral term, the PDS did not have enough Members of the German Bundestag to form a parliamentary group.

⁴⁷ AMIS III, UNMIS III, AMIS V, UNMIS VI and AMIS VI.

⁴⁸ A first reading was held for AMIS VI.

⁴⁹ Shortly before the conclusion of the Commission's deliberations, the request for a serviceman to be posted as deputy commander of the UNMIL peace mission in Liberia was forwarded using the simplified procedure, Bundestag Printed Paper 18/4768. The Left Party parliamentary group demanded that the Bundestag debate this request.

⁵⁰ Cf. the announcement made by Gesine Löttsch, MdB, Minutes of Plenary Proceedings 15/100, p. 8990 C; and the comments from Norman Paech, MdB, Minutes of Plenary Proceedings 16/9, p. 596 A.

⁵¹ Cf. also the reference to remarks to this effect made by Jan van Aken, MdB in Andreas Paulus/Henrik Jacobs, *Die Friedens-Warte* 87 (2012) 2/3, p. 23 (57).

⁵² State Secretary Ederer, Annex 6, p. 14; BMVg, Answers to the Catalogue of Questions, Annex 9, pp. 32 f.

⁵³ The seven-day period does not begin when the request is forwarded, but when the printed paper is distributed. The approval then takes effect with the beginning of the eighth day. In the 16th electoral term, this resulted in procedures that lasted between nine and eleven days.

to requests for approval forwarded under the simplified procedure that were met with demands for the Bundestag to debate them.

Typically, the German Federal Government has forwarded requests for the deployment of armed forces to be approved once a mandate has been finalised at the international level. However, the Parliamentary Participation Act also permits a request to be forwarded before the decision is taken by the competent organ of a system of mutual collective security, provided the framework for the concrete mission is already sufficiently clear. Such an approach may be expedient as a way of improving how the schedules for the national and international procedures fit together. One example of this is the request for the approval of the Resolute Support mission in Afghanistan, which was forwarded by the Federal Government before the North Atlantic Council had finally decided on the mission.⁵⁴

4.2. Absence of specific provisions on staff units and headquarters from the Parliamentary Participation Act

The Parliamentary Participation Act does not contain any specific provisions that govern whether it is necessary to obtain approval when German servicemen and women serve in staff units and headquarters. On this issue, the explanatory memorandum to the Draft Act refers to the practice that prevailed at that time and notes that participation ‘in permanent, integrated, multinationally manned staff units and headquarters’ is not regarded as the deployment of armed forces. By contrast to this, ‘the assignment of personnel to staff units and headquarters specially formed for specific armed deployments’ requires the Bundestag’s approval.⁵⁵ Several practical developments have called into question whether this distinction between permanent units and command structures established on an *ad hoc* basis for a deployment has any value as a definitional criterion.

Firstly, it was decided during the NATO summit at Lisbon that mobile elements of NATO’s permanent staff units and headquarters could also be assigned to a mission area to command the deployment. This leads to a blurring of the legal categorisation of these mobile elements. On the one hand, it could be argued they are organisationally part of a permanent staff unit or headquarters and therefore not subject to parliamentary participation. On the other hand, such mobile elements sometimes take on functions that were performed by *ad hoc* staff units and headquarters at the time when the Parliamentary Participation Act was adopted. This could be cited in support of the argument that the mobile elements are generally to be treated as *ad hoc* staff units and headquarters under the Parliamentary Participation Act as well.

Secondly, there are also uncertainties about the legal categorisation of the EU’s staff units and headquarters. The background to this is that the EU does not possess integrated structures of its own that operate on a permanent basis and would be comparable with NATO’s various headquarters. The EU therefore falls back on national staff units that have been assigned to it for the planning, and control and command of deployments.⁵⁶ The personnel to be supplied when these operational headquarters are activated are laid down in a non-binding Council document, the EU Headquarters Manning Guide.⁵⁷

Since the EU does not possess any permanent planning structures, it is particularly reliant on the provision of an operational headquarters by its Member States at an early stage if it is to be able to plan a CSDP mission. It was pointed out during discussions with representatives from the EU that, although Germany participates reliably in CSDP missions and makes substantial contributions to them, it often still acts very cautiously in the early phase of an operation’s planning. This was felt to be true, in particular, as far as the provision of operational headquarters was concerned.

Furthermore, it can be noted that the sensitivity of Germany’s Alliance partners about reliable collaboration in staff units and headquarters is especially great because these units provide control and command capabilities that are indispensable for a deployment.

Germany supplies approximately 15 per cent of the personnel in NATO’s command structure. The loss of such a large contingent could hardly be compensated for in the short term, if only in purely quantitative terms. Even if it were to be possible to replace them with the same number of personnel from other countries, these personnel would not have equivalent skills. Joint exercises by multinational teams are of central significance in staff units

⁵⁴ Bundestag Printed Paper 18/3246.

⁵⁵ Bundestag Printed Paper 15/2742, p. 5.

⁵⁶ See section 2.2.3. above, p. 15.

⁵⁷ Council Document 15920/11 of 24 October 2011.

and headquarters if the requisite quality standards are to be satisfied. The removal of individual elements from well rehearsed processes can therefore lead to tangible losses of quality.

Against this background, both the German Federal Government and the great majority of the expert witnesses heard by the Commission advocated the incorporation of provisions on staff units and headquarters into the Parliamentary Participation Act.⁵⁸

4.3. Ability to act within the Alliance and the definition of ‘deployment’

The German Federal Government set out a series of examples in which the use of the term ‘deployment’ in the Parliamentary Participation Act has caused difficulties of definition in practice. The clarification of these questions of definition could strengthen Germany’s ability to honour its obligations within the Alliance.⁵⁹

The first group of cases related to training missions. On account of their functions, these missions do not require a mandate. However, it may become necessary to obtain a mandate, depending on the hazard situation. Here, the German Federal Government refers in particular to the imponderables attributable to the fact that the assessment of the hazard situation can alter in the course of a mission.⁶⁰

Against this background, the EUTM Somalia training mission was not mandated as long as it was being conducted in a safe environment in Uganda. When the training was relocated to Somalia, the German Federal Government started requesting the Bundestag’s approval for these deployments. The Bundestag was also asked to approve EUTM Mali, not least in view of the fact that the mission involved a force protection component of its own.

It was reported that there were problems of definition in relation to reconnaissance teams. On the one hand, the deployment of such teams is one of the preparatory measures on which the planning of a deployment builds. On the other hand, the first indent of Section 4(3) of the Parliamentary Participation Act explicitly extended the scope of the simplified procedure to reconnaissance teams. This threw up questions about the circumstances under which a reconnaissance team would be subject to the obligation to obtain approval.⁶¹ The hazard situation also played a role in this connection, which meant there were certain similarities with questions about the mandating of training missions.

No practical examples of a mandated reconnaissance team can be identified. However, the provision of air transport capacities for EUTM Mali’s advance party was deemed to require approval because the deployment of the core of the headquarters was designated phase 1 of the operation in the Concept of Operations.⁶²

Furthermore, the Federal Government said it was not clear whether and under what circumstances the exception provided for in Section 2(2) of the Parliamentary Participation Act, under which humanitarian relief or support operations did not constitute armed deployments, was also applicable to humanitarian aid for the benefit of participants in armed conflicts. This was of significance, in particular, for the strategic transportation of casualties.⁶³

Finally, the question of whether a mandate was needed had caused difficulties for the planned short-term deployment of an unarmed senior officer to assess countermeasures against improvised explosive devices on the UN MONUSCO mission. Ultimately, it had been decided not to send the officer on this assignment because his deployment had been deemed to require a mandate. It was explained in particular that the UN mission itself had been authorised to use armed force to enforce its mandate.⁶⁴ However, it is to be noted that the possibility of the German serviceman taking part in concrete measures to enforce the Mission’s mandate during his time there could probably have been ruled out. His activities would therefore only have been connected with an armed operation in a very broad sense.

⁵⁸ State Secretary Ederer, Annex 6, p. 14; at the hearing on 11 September 2014: Winfried Nachtwei, Statement (Annex 19), p. 5; Markus Kaim, Statement (Annex 18), pp. 8 f.; Johannes Varwick, Statement (Annex 20), p. 7; see also Brose, pp. 9, 12 f.

⁵⁹ BMVg, Answers to the Catalogue of Questions, Annex 9, p. 32.

⁶⁰ State Secretary Ederer, Annex 6, p. 13; General Wieker, Annex 8, pp. 11 f.

⁶¹ General Wieker, Annex 8, p. 13.

⁶² BMVg, Answers to the Catalogue of Questions, Annex 9, pp. 33 f.

⁶³ BMVg, Answers to the Catalogue of Questions, Annex 9, p. 34.

⁶⁴ State Secretary Ederer, Annex 6, p. 14; see also BMVg, Answers to the Catalogue of Questions, Annex 9, pp. 32 f.

4.4. Practice in the formulation of mandates

The Parliamentary Participation Act lists the elements that a request forwarded by the German Federal Government must contain (Section 3(2) ParlBG). These are the operational mandate, the operational area, the legal bases for the mission, the maximum number of service personnel to be deployed, the capabilities of the armed forces to be deployed, the planned duration of the mission and the anticipated costs, including funding arrangements.

The further development of the political and military parameters for a deployment may make adjustments to the operations necessary that do not alter the mission's fundamental character to a significant extent. If the above-mentioned elements are specified too narrowly in a mandate, the room for manoeuvre to make such adjustments will be restricted or a renewed mandate will come to be required, something that usually means expending additional political capital.

Examples of mandates being renewed when this was regarded as necessary for particular military capabilities were the parliamentary *ex-post* approval for the deployment of RECCE Tornados during the ISAF deployment in 2007⁶⁵ and the participation of German armed forces in the NATO AWACS deployment over Afghanistan in 2009.⁶⁶

The specification of the maximum number of personnel to be deployed is of particular practical significance. In this respect, it should initially be noted that the maximum number of personnel specified in a mandate is strictly to be distinguished from the number of servicewomen and men who are actually deployed.

One example in which the specification of the maximum number of personnel to be deployed came to be of immediate operational significance was the ISAF mandate adopted in 2011.⁶⁷ Within the constraints of the maximum number of personnel that had been specified, it was not at first possible for German servicewomen and men to participate in the deployment of AWACS aircraft in Afghanistan even though this meant the sustainability of the AWACS component was not permanently ensured. A separate mandate was requested a short while later when it was decided to mitigate the problems caused by Germany's refusal to take part in NATO's Operation Unified Protector in Libya by contributing to the Afghanistan deployment after all.⁶⁸

Another example of a narrowly specified maximum number of personnel is the Resolute Support mission in Afghanistan. 800 servicewomen and men were originally foreseen for this mission. During the concrete detailed planning for the German contribution, the maximum number of personnel to be deployed was raised to 850 shortly before the mandate was requested. Even with this upper limit, however, the room for manoeuvre is still limited. This applies firstly in view of the possibility of short-term changes in the security situation, for which – unlike on the KFOR mission⁶⁹ – no reserve forces are foreseen. Secondly, the room for manoeuvre is limited if it is taken into consideration that, as the framework nation, Germany will bear particular responsibility to compensate for personnel bottlenecks that occur in the short term, certainly for a transitional period.

Examples of a narrowly specified geographical area of operation are offered by the mandates for ISAF and the Anti-Piracy Operation Atalanta.

The earlier ISAF mandates restricted the operational area for the German armed forces to two ISAF regions, Kabul and North. An exception from this rule was only possible if it was absolutely essential for the performance of the overall ISAF mandate.⁷⁰ In contrast to this, the ISAF mandate adopted in 2014 loosened these restrictions. Under this mandate, deployments of German servicewomen and men outside the Kabul and North Regions were permissible for measures of limited duration and scale, provided these measures were required for the performance of the overall ISAF mandate.⁷¹

The first mandate for the Atalanta anti-piracy operation defined the operational area for the mission as the 'sea area up to 500 sea miles off the coast of Somalia and its neighbouring countries.'⁷² After the pirates had expanded their radius of action to areas of sea to the south east of the Seychelles, the European Union's Political and Security

⁶⁵ Bundestag Printed Paper 16/4298.

⁶⁶ Bundestag Printed Paper 16/13377.

⁶⁷ Bundestag Printed Paper 17/4402.

⁶⁸ Bundestag Printed Paper 17/5190.

⁶⁹ On the maximum number of personnel to be assigned to KFOR and the Operational Reserve Forces, cf., as one of a number of examples, the request forwarded as Bundestag Printed Paper 18/1415, pp. 4 f.

⁷⁰ Cf., most recently, the 2012 ISAF mandate, Bundestag Printed Paper 17/11685, p. 3, point 8.

⁷¹ Bundestag Printed Paper 18/436.

⁷² Bundestag Printed Paper 16/11337, p. 4.

Committee decided to extend the operational area. This made an amendment of the mandate necessary, with the Seychelles also being explicitly mentioned as one of Somalia's neighbouring countries.⁷³

4.5. Significance of civilian-military cooperation

International crisis management requires a broad range of instruments, which extend from diplomacy and development cooperation to cooperation on interior and justice matters, and the deployment of military resources. As a broad, comprehensive approach of this kind, the Responsibility to Protect concept involves non-military methods first and foremost. Even in crises that require military intervention, a multidimensional methodology is called for as well, not least in order to ensure the situation is stabilised sustainably after the end of armed hostilities. The parallel presence of several international missions dedicated to crisis management is a manifestation of this multidimensionality. Accordingly, Germany also commits itself at the international level in all fields of civilian crisis management.⁷⁴

Against this background, the German Federal Government and several of the expert witnesses who were heard emphasised that progressive military cooperation ought not to be looked at in isolation.⁷⁵ The common foundation of security policy principles necessary for greater Alliance integration calls especially for a shared understanding of the significance of non-military components and the incorporation of any military commitment into an overarching political approach.

4.6. Structured, ongoing provision of information and interdepartmental evaluation

An important complementary building block in the efforts made to gain lasting political support for deployments in the Bundestag and so strengthen Germany's reliability is the provision of meaningful information on whether, and to what extent, the goals pursued with a mission have been achieved.

With regard to the furnishing of information to the Bundestag, the Parliamentary Participation Act provides for the German Federal Government to inform parliament regularly about the progress of missions and about developments in the operational area (Section 6(1) ParlBG). In particular, the Federal Government uses the written Notification of Parliament about Bundeswehr Missions Abroad (UdP), which is issued every sitting week, to do this, as well as providing information on an ongoing basis at meetings of the Defence Committee.

The remarks on Section 6 of the Parliamentary Participation Act in the explanatory memorandum to the Draft Act mention that, in addition to the ongoing provision of information about developments in the operational area, the German Federal Government is to present general stocktake reports annually on the developments undertaken. Following the ending of a mission, an evaluation report is to be drawn up that describes and assesses both its military and political aspects.⁷⁶ However, the Federal Government pointed out that these concrete means of furnishing information had not been embodied in the text of the legislation and were therefore not binding.⁷⁷

During the ISAF mandate, the German Federal Government responded to demands from the Bundestag and starting issuing annual progress reports from the end of 2010 on.⁷⁸

Germany's Alliance partners also work with approaches that emphasise the role of indicator-based reporting.

⁷³ Bundestag Printed Paper 16/13187.

⁷⁴ For a detailed account, cf. the German Federal Government's Fourth Report on the Implementation of the Civilian Crisis Prevention, Conflict Resolution and Post-Conflict Peacebuilding Action Plan, Bundestag Printed Paper 18/3213.

⁷⁵ State Secretary Ederer, Annex 6, p. 6; General (ret.) Jones, Opening Statement, Meeting of 26 June 2014, Annex 14, pp. 52, 56 f.; Joep Wijnands, Opening Statement, Meeting of 26 June 2014, Annex 16, p. 74. Ambassador Erdmann explicitly emphasised that NATO is not merely a military alliance, Annex 12, pp. 2 f.

⁷⁶ Bundestag Printed Paper 15/2742, p. 6.

⁷⁷ Answer of the German Federal Government, Bundestag Printed Paper 16/3740, pp. 2, 4, 5.

⁷⁸ The progress reports can be viewed online: <http://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/Afghanistan/2011-12-27-fortschrittsbericht-afghanistan.html> (20 April 2015).

In 2008, for example, the Canadian government began to present quarterly reports on Canada's engagement in Afghanistan.⁷⁹ These reports include benchmarks, progress indicators and annual targets for Canada's six priorities for its Afghanistan commitment.⁸⁰ The application of indicator-based monitoring by the Canadian government goes back to recommendations made by the Manley Commission.⁸¹

When the Netherlands' contribution to ISAF was evaluated, it was recommended that outcome-oriented indicators be adopted at the beginning of future deployments. These indicators could contribute to the monitoring and evaluation of these deployments.⁸²

One example of what has traditionally been a highly developed reporting system on military deployments is found in the USA.⁸³ This is, however, to be seen against the background of the US system of government, in which there tends to be an antagonistic relationship between the President and Congress.

The expert witnesses who were heard emphasised it was not just the quantity of information that was decisive. What was crucial first and foremost was the provision of high-quality, key information that allowed a strategic debate to take place. In practice, there was a great danger of it being far from easy to identify the information central to the assessment of a mission's success, with the result that a preoccupation with the details of a deployment obscured the bigger picture. It was necessary to counter this tendency.⁸⁴

5. United Nations peace missions

Approximately 107,800 service personnel, military observers and police officers are currently deployed on the 16 peace missions led by the United Nations. Germany is contributing to these missions with 158 servicewomen and men, 20 police officers and 16 experts.⁸⁵

The evolution being seen in peace missions has been influenced especially by a shift towards more robust, more proactive mandates, and the need for specialised capabilities that are sometimes deployable at short notice and can mainly be provided by the developed states. Against this background, particular significance attaches to co-operation between the EU and the United Nations on peace missions. Building on the EU Plan of Action that dates from 2012, cooperation is to be strengthened by a plan that sets priorities for the period from 2015 to 2018.⁸⁶

The prospect of Germany committing itself to collaboration with European partners makes it clear how such commitments relate to the question of progressive Alliance integration, in particular at the EU level.

5.1. Developments in UN peacekeeping

United Nations peace missions have increased considerably in complexity since the mid-1990s. This has been associated with a development towards more robust, but also more complex, multidimensional mandates. The protection of civilians plays a particular role in these missions. This distinguishes them from the classic UN Blue Helmet missions, which were primarily concerned with monitoring a ceasefire agreement along a demarcation line negotiated between the parties to a conflict. The last time a new mission on this classic model was established was in 2001 during the conflict between Eritrea and Ethiopia. The background to this development has been, not least, the increase in asymmetric conflicts, on which the United Nations have begun to focus more strongly.

⁷⁹ In taking this step, the Canadian government was complying with a motion passed by the House of Commons on 13 March 2008; House of Commons of Canada, 39th Parliament, 2nd Session, Journal 66.

⁸⁰ Cf., as one example among many, *Canada's Engagement in Afghanistan: Quarterly Report to Parliament For the Period of October 1 to December 31, 2010*, online: http://publications.gc.ca/collections/collection_2011/bcp-pco/CP12-2-11-2010-eng.pdf (27 April 2015).

⁸¹ *Independent Panel on Canada's Future Role in Afghanistan*, 2008, pp. 36, 38, online: http://publications.gc.ca/collections/collection_2008/dfait-maeci/FR5-20-1-2008E.pdf (24 April 2015).

⁸² *Final evaluation: Netherlands contribution to ISAF, 2006 – 2010*, 23 November 2011, p. 108, online: http://www.jallc.nato.int/activities/rfoids/final_evaluat_on_netherlands_participation_in_isaf%202006-2010_tcm4-825602.pdf.

⁸³ Cf. for instance the six-monthly progress reports from the US Department of Defense to Congress, most recently: *Report on Progress toward Security and Stability in Afghanistan*, October 2014, online: http://www.defense.gov/pubs/Oct2014_Report_Final.pdf (27 April 2015).

⁸⁴ Winfried Nachtwei, Statement (Annex 19) pp. 3, 6; General (ret.) Jones, Opening Statement, Meeting of 26 June 2014, Annex 14, p. 59.

⁸⁵ DPKO, Contributors to United Nations peacekeeping operations, online: http://www.un.org/en/peacekeeping/contributors/2015/apr15_1.pdf (as of 30 April 2015).

⁸⁶ Plan of Action to enhance EU CSDP support to UN peacekeeping, 2012, Council Document 11216/12 (Limite). Cf. the earlier EEAS document Actions to Enhance EU CSDP support to UN peacekeeping, Council Document 17497/11. The new plan, Strengthening the UN-EU Strategic Partnership on Peacekeeping and Crisis Management: Priorities 2015-2018, is currently the subject of deliberations in the EU bodies.

Despite the strong tendency towards more robust mandates, observers emphasise that, ultimately, it is the accompanying political process that is decisive for the success of a peace mission. The deployment of the Force Intervention Brigade in the Democratic Republic of Congo as part of the MONUSCO mission is cited as an example of this. The 3,000-strong Intervention Brigade is intended to deter and, where necessary, neutralise armed groups that are operating in eastern Congo.⁸⁷ This measure is being overseen politically by the Special Envoy to the Great Lakes Region under what is known as the Peace, Security and Cooperation Framework. It is recognised that the political background and the alliances between various actors need to be borne in mind, especially when more robust mandates are adopted.

At the same time as the tendency towards more robust mandates, recent UN missions have been characterised by the fact that civilian components are playing a stronger role. The increased complexity of the conflicts is also leading to several missions frequently being active in parallel in a single crisis area.⁸⁸ Crisis prevention, post-crisis rehabilitation and measures to improve the human rights situation have also gained considerably in significance. Various aspects of the human rights situation are viewed by the United Nations as important early warning indicators for emerging and/or escalating conflicts.

At present, a fundamental review of the conceptual foundations for peace missions (peacekeeping doctrine) is being undertaken at the United Nations level. For this purpose, the Peace Operations Review was initiated by the Secretary-General of the United Nations at the end of October 2014 with a 17-member High-Level Panel being appointed, to be chaired by the former President of Timor-Leste, José Ramos-Horta.⁸⁹ The Panel is due to present its recommendations to the Secretary-General at the beginning of June 2015. The Secretary-General will then report to the General Assembly about their planned implementation in September 2015.

5.2. The United Nations' requirements and expectations of Germany

5.2.1. The United Nations' requirements

Generally, the United Nations are known to need large numbers of 'enablers' and 'force multipliers'. When it comes to the commitments made by the European states, it is less the number of troops that matters to the United Nations than the quality of the capabilities that participate.

The United Nations are therefore hoping, in particular, for contributions from Germany and the other EU Member States in the fields of reconnaissance, air transport, engineering, above all to help construct infrastructure, medical care, and the bilateral provision of equipment and training assistance.⁹⁰ Great significance is also accorded to the policing sector and the efforts to build state institutions, not least in order to safeguard peaceful development sustainably after the end of hostilities. Many of these capabilities are frequently required rapidly, but only for relatively short periods of time, for instance when a new mission is being set up. This sheds light on why the United Nations have of late been paying noticeable premiums on the reimbursement rates for the rapid provision of capabilities.⁹¹

For the United Nations, the success of the start-up phase has particular significance. If the build-up of a mission is delayed, this can result in expectations on the ground being disappointed and the population's confidence in the mission being permanently weakened. During this phase, the United Nations are particularly dependent on the predictable, reliable provision of capabilities by member states. In this connection, capabilities made available for limited periods during the initial phase are also viewed as significant means of ensuring a new mission is operational. Technologically demanding tasks often have to be coped with during the start-up phase. For example, representatives of the United Nations reported that the climatic conditions in Mali have posed a particular challenge for the efforts to construct infrastructure.

Another critical element in the planning of a mission is the early availability of a rescue chain and high-quality medical care. From the point of view of the United Nations, this usually represents a crucial element during troop

⁸⁷ United Nations Security Council, Resolution 2098, S/RES/2098, 28 March 2013.

⁸⁸ On the challenges encountered in the coordination of planning processes for parallel missions, cf. Thierry Tardy/Richard Gowan, *Building EU-UN Coherence in Mission Planning & Mandate Design*, ZIF Policy Briefing November 2014.

⁸⁹ Secretary-General of the United Nations, Statement on appointment of High-Level Independent Panel on Peace Operations, 31 October 2014.

⁹⁰ On the capabilities requested from the EU by the Department of Peacekeeping Operations, cf. Adam Smith, *European Military Capabilities and UN Peace Operations: Strengthening the Partnership*, ZIF Policy Briefing October 2014, p. 3.

⁹¹ The premiums for what is known as a 'rapid deployment' can be as much as 25%.

generation because numerous force providers have made their pledges conditional on the availability of these facilities.

With regard to missions' ability to protect themselves and civilian populations, the United Nations aspire to act proactively. If they are to do this, they require air mobility and aerial reconnaissance capacities, not least in view of the size of the areas in which they operate. At the same time, the United Nations are increasingly resorting to drones.

What is known as intermission cooperation is also recognised to be of rising significance for peace missions,⁹² especially in the field of logistics. It is particularly relevant during the start-up phase of a mission and in situations in which rapid, *ad hoc* measures to strengthen a commitment are required. Here, the United Nations are of the view that intermission cooperation can contribute to the more flexible, more efficient utilisation of scarce capabilities.

5.2.2. The EU's cooperation with the United Nations

The EU is also regarded as an important actor in the context of peace missions, in particular where it assumes a bridging function at the beginning of a crisis response or is present with a mission in parallel to the United Nations. On 3 June 2012, the EU's Political and Security Committee adopted a Plan of Action to enhance EU CSDP support to UN peacekeeping, which was to be implemented through to the end of 2014.⁹³ The Plan of Action provided for six fields in which the EU's cooperation with the United Nations was to be strengthened. It also involved what was termed a modular approach under which the EU would make CSDP components available to United Nations-led peace missions.⁹⁴ One challenge in this respect is the development of a command structure that makes allowances for the EU's desire to preserve the autonomy of its decision-making processes. An alternative solution could be the promotion of cooperative arrangements between EU Member States who wish to make joint contributions to United Nations peace missions.⁹⁵

Thought is also being given to a stronger EU role in the initial response to a crisis. This would serve the aim of bridging over the time it takes for a UN mission to be deployed and start operating on the ground. The EU Battlegroups could possibly make a contribution here.⁹⁶

Following the expiry of the Plan of Action, the next step is to set the priorities for the strategic partnership between the EU and the United Nations on peace missions for the period from 2015 to 2018.

5.3. Strategic orientation of Germany's European partners

Some of Germany's important European partners have strengthened their commitment to United Nations peace missions in the recent past or are planning to do so.⁹⁷

For example, with their contributions to the UN's MINUSMA mission in Mali, the Netherlands have taken on a leadership role in a United Nations peace mission for the first time since the Srebrenica massacre.⁹⁸ This commitment was made on the basis of a thoroughgoing strategic debate about the aims of Dutch foreign policy in relation to United Nations peace missions that was partly conducted in the country's parliament. When this mission was being selected, it must not least have played a role that the Netherlands had previously been heavily engaged in development cooperation in Mali.

⁹² Intermission cooperation involves certain capabilities being made available by one UN peace mission to another; cf. State Secretary Ederer, Annex 6, p. 16.

⁹³ See Note 86 above.

⁹⁴ Tobias Pietz, *Die EU und das UN-Peacekeeping: Halbzeit bei Brüssels Aktionsplan*, ZIF Policy Briefing October 2013. The unpublished final report on the Plan of Action was presented on 23 March 2015, EEAS document 457/15.

⁹⁵ For a comprehensive discussion of models of cooperation, see Adam Smith, *European Military Capabilities and UN Peace Operations: Strengthening the Partnership*, ZIF Policy Briefing October 2014, pp. 3 f., 6 f.

⁹⁶ This issue is dealt with in detail in Adam Smith, pp. 5 f. See also Wanda Hummel/Tobias Pietz, *Partnering for Peace: Lessons and Next Steps for EU-UN Cooperation on Peace Operations*, ZIF Policy Briefing February 2015, p. 4.

⁹⁷ On the contributions made by the various Member States, cf. Adam Smith, pp. 2 f., 7.

⁹⁸ The Dutch Blue Helmet soldiers deployed in the safe area at Srebrenica were unable to prevent the genocidal massacre of Bosnian Muslims there.

The Dutch contributions include, firstly, reconnaissance capabilities and the provision of an All Sources Information Fusion Unit for the coordinated evaluation of strategic reconnaissance in an asymmetric conflict environment. They have been assisted in running this Unit by the Swedish mission contingent in particular.⁹⁹ Secondly, the Netherlands armed forces are deploying special forces and Apache attack helicopters as they take a robust approach to ensure civilians are protected. Finally, until October 2014 the Netherlands provided the Special Representative of the Secretary-General and Head of MINUSMA, Albert Koenders. This involvement in the mission's leadership is regarded as an important condition for the Dutch commitment.

⁹⁹ Adam Smith, pp. 2, 7. Other states, including Germany, have posted personnel to the All Sources Information Fusion Unit in order to gather experience for future UN contributions.

Part Three – Proposals

6. Proposals concerning multilateral composite capabilities

6.1. Reports on multilateral composite capabilities

The Commission is of the opinion that the continuing progressive integration of the Alliance's military capabilities will, among other things, depend decisively on the confidence Germany's partners have that capabilities organised on the basis of a division of labour will definitely and reliably be available if a mission is decided on at the international level with German approval. As a means of strengthening its Alliance partners' confidence in Germany's reliability, there will be a need for a political process that makes the political actors conscious of the dependencies linked with multilateral composite capabilities.

For this reason, the Commission proposes that each year the German Federal Government submit a report to the Bundestag on multilateral composite military capabilities whose availability is to be assured politically. Furthermore, the German Federal Government should inform the Bundestag at an early stage when new multilateral composite capabilities are formed in order to ensure attention is targeted on the implications of the progress in the integration process they represent.

By contrast to this, the Commission does not feel it would be expedient to grant global authorisations, which would empower the German Federal Government in abstract terms to deploy particular military capabilities in cases that could not be predicted with any certainty for a specific period, and to do so without the Bundestag's approval. First of all, there are considerable constitutional doubts about whether abstract approval for a deployment of particular capabilities that needs to be mandated would satisfy the requirements of constitutive parliamentary approval. In particular, when global approvals along these lines were being granted, it would hardly be possible to undertake an adequate assessment of the potential dangers and the potential for involvement in armed operations consequent upon a concrete deployment of such a capability. However, it is this political assessment and its communication to the public that represent one of the principle functions of the constitutive requirement of parliamentary approval.¹⁰⁰ Even if the Federal Government could be authorised to act by a legally effective global approval, Germany's reliability within the Alliance would still be dependent on continuing political support for the deployment from the Bundestag. This underlines that the desire to secure such political support permanently should primarily be pursued through political processes.

The proposed reports on multilateral composite capabilities should be integrated into the Parliamentary Participation Act by the following amendment:

1. The following Section 9 shall be inserted after Section 8:

'Section 9 Multilateral Composite Military Capabilities

(1) Each year, the Federal Government shall submit a report on current multilateral composite military capabilities whose availability is to be assured politically to the Bundestag. In its report, it shall detail the dependencies that are associated with the capabilities in question and the possible consequences that would arise for any envisaged deployment of these capabilities if Germany were not to participate.

(2) The Federal Government shall inform the Bundestag as early as possible about the establishment of new multilateral composite military capabilities in which Bundeswehr service personnel are to serve. The Federal Government shall submit a report to the Bundestag following the conclusion of agreements or adoption of decisions concerning such capabilities.'

2. The current Section 9 shall be renumbered Section 10.

¹⁰⁰ BVerfGE 121, 135 (161 f.) – AWACS Turkey.

Explanatory remarks:

The aim of the reports on multilateral composite military capabilities introduced by Section 9 is to foster political trust in the German contributions to these capabilities. The Bundestag is able to comment on these reports under the general rules of parliamentary law and should also exercise this right as far as possible. The constitutive approval of the Bundestag remains the prerequisite for the deployment of multilateral composite military capabilities as part of armed operations as well.

Multilateral composite capabilities are military capabilities that have been configured as structures characterised by a division of labour. At the same time, this division of labour entails mutual dependencies when such capabilities are deployed. The willingness to take further steps towards the integration of military capabilities in NATO and the EU will therefore depend decisively on the availability of such capabilities being politically assured when a competent decision-making body of a system of mutual collective security such as the North Atlantic Council or the European Council has decided on a mission.

The term ‘multilateral composite military capabilities’ covers both situations in which a capability is organised as a composite formation made up of contributions from various partners, and forms of cooperation in which the partners specialise in particular capabilities that then collaborate in a composite formation. Examples of multilateral composite capabilities are AWACS, the future AGS and NATO’s integrated command structure. Furthermore, multinational structures, such as the Multinational Joint Headquarters at Ulm and the Multinational Corps Northeast at Stettin, are categorised as multilateral composite capabilities. Another example is the Very High Readiness Joint Task Force (VJTF), the functionality of which depends on the Member States actually being able to deliver the contributions they have pledged when a deployment is conducted. Much the same is true for the EU Battlegroups, which are provided by groups of Member States as crisis response forces under the Common Security and Defence Policy, and maintain a high state of readiness during the six-month periods for which they are on standby. One example of a multilateral military composite capability in the form of a specialised national capability is the Patriot missile defence system, which only a small number of the Alliance’s members possess.

The degree of dependence found can vary considerably between the various multilateral composite military capabilities. Against this background, the German Federal Government enjoys scope for discretion and judgement when deciding on the degree of dependence as of which it wishes to politically assure the availability of a capability and what specific capabilities it will seek to do this for.

The German Federal Government uses the submission of these annual reports to explain the concrete responsibility for multilateral composite military capabilities consequent upon its solidarity with the other members of the Alliance. In this respect, the reports are to give an up-to-date general overview of the political commitments entered into by Germany under the auspices of Alliance integration and the dependencies with which they are associated. The expectation is that this will build confidence among Germany’s partners in two ways. Firstly, the German Federal Government binds itself to these concrete forms of Alliance solidarity. Secondly, not least as a result of their regularity, the reports and the debates that are held on them encourage a heightened awareness of our partners’ concerns in the Bundestag. To this end, the reports contribute to the preparation and facilitation of political decision-making when the German Federal Government asks the Bundestag to approve the deployment of such capabilities.

When multilateral composite military capabilities are discussed in these reports, it will often be necessary to thoroughly examine the security context as well in order to be able to classify the mutual dependencies associated with each capability.

In particular, the account given of the mutual dependencies that are associated with a capability is to elucidate how and on account of what circumstances, on the one hand, other members of the Alliance are dependent on the availability of the German element in this capability and, on the other hand, Germany is dependent on the availability of its partners’ elements. This might be influenced by quantitative and qualitative factors.

The capability-specific account of the possible consequences of Germany’s non-participation should, in particular, deal with the following aspects:

- Whether and to what extent a deployment of this capability would be endangered and/or less sustainable without the German element.
- Whether and to what extent the deployment of other capabilities would be compromised if the German element of a capability were not to be available.

- What types of deployment would be particularly affected if a capability were to be compromised or blocked from action.

Furthermore, it is to be highlighted if particular multilateral composite military capabilities appear particularly relevant for deployments on United Nations peace missions.

The report on the establishment of a new multilateral military composite capability (paragraph 2) is to make it possible for timely, focussed deliberations to be held on the specific questions that arise about the new capability in question.

According to the first sentence of paragraph 2, the German Federal Government informs the Bundestag as early as possible about the establishment of new multilateral composite military capabilities. In this respect, the Federal Government enjoys scope for judgement as to when the negotiations about the establishment of a new multilateral composite capability have made sufficient progress for the Bundestag and/or the parliamentary committees responsible to be informed about this. The obligation to furnish information about the EU's Common Security and Defence Policy under Section 7 of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union (EUZBBG) remains unaffected. According to Section 7 of the Act, the Federal Government has to provide comprehensive, continuous notification as early as possible, in particular about legislative acts in this field that are due for discussion and the likely future course of the discussions. Documents of fundamental significance are to be forwarded to the Bundestag at its request.

The obligation to report under the second sentence of paragraph 2 arises if the German Federal Government has reached agreements at the international or European level that raised expectations concerning its behaviour among other members of the Alliance. For example, the conclusion of a memorandum of understanding or the exchange of what are known as letters of intent could constitute such an agreement. One example of a multilateral military composite capability established by a decision of an organ of an international organisation is the VJTF, which goes back to decisions adopted by the North Atlantic Council. Within the EU, multilateral composite capabilities can be established by decisions of the European Council (Article 46 Treaty on European Union (TEU)). The sphere of executive responsibility remains unaffected.

The need to obtain parliamentary approval for a capability's deployment on a specific mission is not limited by the debate and the adoption of potential motions for resolutions on the reports provided for in paragraphs 1 and 2.

6.2. Incorporation of provisions on staff units and headquarters into the Parliamentary Participation Act

In order to take account of the particular significance of military staff units and headquarters, the Commission proposes that a greater degree of legal security be created by adding explicit provisions to the Parliamentary Participation Act.

The following Section 2a shall be inserted after Section 2:

‘Section 2a Service in Military Staff Units and Headquarters

No approval from the German Bundestag shall be required for Bundeswehr personnel to perform functions in integrated or multinationally manned headquarters, agencies and staff units formed by NATO, the EU or any other organisation of mutual collective security, provided they are not present in an area of armed conflict or personally operate weapons that have been deployed there while performing such functions.’

Explanatory remarks:

The 2005 Parliamentary Participation Act does not contain any explicit provisions on staff units and headquarters. However, the explanatory memorandum to the Draft Act notes there is an understanding that the service of German personnel ‘in permanent, integrated, multinationally manned staff units and headquarters’ is not deemed to be the deployment of armed forces. By contrast, the Bundestag's approval is required when personnel are assigned to staff units and headquarters specially formed for concrete armed deployments (Bundestag Printed Paper 15/2742, p. 5).

In the past, this legal situation has thrown up various questions of definition, for instance when the personnel resources of permanent staff units have been built up at times of crisis. Furthermore, the need for explicit provisions in the Parliamentary Participation Act has grown greater as a result of new developments within NATO and the EU.

Firstly, the distinction between permanent and temporary staff units is not immediately applicable to staff units and headquarters that are set up to lead EU missions under the CSDP. At present, the European Union does not possess permanently operating staff units or headquarters. For the planning and command of deployments, the EU therefore falls back on national staff units that have been assigned to it. Secondly, the formal distinction between permanent and temporary staff units does not seem pertinent in relation to the recently created mobile elements of NATO's permanent staff units and headquarters. If these mobile elements deploy to an area of armed conflict, servicewomen and men may possibly be exposed to concrete dangers. The formal distinction between permanent staff units and staff units formed on an *ad hoc* basis is therefore discarded.

The deployment of German servicewomen or men to an area of armed conflict as part of a staff unit constitutes a new definitional criterion. The background to this is that such deployments are typically associated with increased military dangers to the servicewomen and men in question. For this reason, the deployment of mobile elements of a permanent staff unit to an area of armed conflict is to require approval as well.

The term 'armed conflict' is firmly rooted in the terminology of international law, relating as it does to the use of organised violence by armed groups. However, this legal term does not allow the relevant operational area to be determined unambiguously because different provisions in humanitarian international law apply to different geographical areas. This is why the term 'area of armed conflict' should not be interpreted too narrowly and, in case of doubt, a parliament-friendly approach ought to be taken when interpreting the scope of the relevant provisions. It not only includes 'zones of active hostilities', but all areas in which there is a concrete possibility of involvement in armed combat. In particular, it is not necessary for hostilities to be immediately imminent in the area to which the staff unit or headquarters is deployed. It is sufficient for there to be a concrete expectation of involvement in an armed operation under not improbable conflict scenarios. Nor is it material whether the fighters who pose a danger to the servicewomen and men are regular or irregular forces.

The fact that the deployment of mobile elements of a staff unit to an area of armed conflict will require the Bundestag's approval in future does not restrict Germany's ability to honour obligations within the Alliance. In particular, it is possible for German servicewomen and men to serve in a mobile element of this kind without interruption or delay because – where required when a deployment is conducted – this does not depend on the Bundestag's prior approval on account of the provisions for urgent cases set out in Section 5 of the Parliamentary Participation Act. Furthermore, NATO and the EU's staff units and headquarters are among the multilateral composite capabilities whose availability is to be assured politically in future by the reports provided for in Section 9 of the Parliamentary Participation Act. This applies to a particular degree for the mobile elements of such staff units and headquarters.

It is not deemed to be service in integrated and/or multinational staff units if Bundeswehr personnel directly operate (remotely) guided military weapons. In consequence, the direct guidance of an armed drone, for example, continues to require approval, even if this is done geographically or organisationally from a staff unit or headquarters.

6.3. Contacts with parliamentarians from other Alliance members

Even if confidence between Alliance partners is fostered first and foremost by cooperation within the Alliance and at the government level, contributions can be made at the parliamentary level that complement this process. This reflects the fact that the governments of Germany's Alliance partners also have to explain, not least to their own parliaments, how the availability of newly established multilateral composite capabilities will be assured politically.

This is why the Commission recommends that contacts with parliamentarians from Germany's Alliance partners and Members of the European Parliament be exploited to strengthen mutual understanding on security and strategic issues. This could also help to increase the attention paid to the European dimension of multilateral composite capabilities in those countries' parliaments.

The NATO Parliamentary Assembly and, within the EU, the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy established in 2012 are available as forums for this purpose.¹⁰¹ Secondly, regular contacts at the level of the committees responsible could be helpful. This is true, in particular, for the parliaments of Alliance members with whom there is comparatively close security and defence cooperation. The exchange of opinions and information with the competent committees at the European Parliament could also be intensified, for instance by means of regular joint meetings or by inviting Members of the European Parliament to attend the discussions on particular items dealt with by the Bundestag's Committee on Foreign Affairs or Defence Committee.

Furthermore, the Commission recommends that there be an examination of the extent to which the exchange of information with parliaments of Alliance partners with whom security cooperation is particularly close could be institutionalised more strongly. This could, for example, be done with a view to the deliberations on multilateral composite capabilities, as well as the criteria for, and results of, the evaluation of deployments.

7. Clarification of the term 'deployment'

In view of the questions of definition encountered during its deliberations,¹⁰² the Commission recommends a legislative clarification of the term 'deployment' that makes it clear which practically relevant types of deployment are not typically expected to result in involvement in an armed operation and so do not require the approval of the Bundestag. In particular, the Commission sees a need for clarification with regard to the particular types of deployment on which servicewomen and men are either unarmed or merely bear arms for the purposes of self-defence. These include the provision of logistical services and medical care, as well as the deployment of training and observer missions.

According to the case law of the Federal Constitutional Court, the deployment of armed forces requires particular legitimisation from two points of view under constitutional law: firstly, due to the significant risk to the lives and health of German servicewomen and men and, secondly, on account of the potential for political escalation and involvement in armed operations.¹⁰³ These two aspects also guide the interpretation of the term 'deployment'. While the question of the concrete risk to the lives and health of German servicewomen and men ultimately always presupposes an assessment of the individual case, it is possible to identify particular types of deployment that are usually to be assessed as having little potential for escalation and involvement in armed operations.

In this respect, the Commission assumes that, on the one hand, not every activity that indirectly supports an armed deployment leads to involvement in an armed operation. In so far as this is the case, it is necessary to distinguish between ways of providing support that could result in Germany bearing responsibility under international law and the more narrowly defined involvement in an armed operation that, constitutionally, triggers the requirement of parliamentary approval. On the other hand, the appropriate constitutional categorisation of the support that is to be provided presupposes joint actions by integrated forces are assessed in their entirety and not broken down into their individual system components. Unarmed Bundeswehr service personnel are also involved in an armed operation without personal danger if they act as essential parts of the military system that is conducting the armed deployment.¹⁰⁴ The examples cited by the Federal Constitutional Court make it clear that their contributions must exhibit a 'specific proximity' to the use of weapons. For instance, an individual is involved in an armed operation if they undertake reconnaissance that immediately directs that operation. Conversely, participation in general situation reconnaissance does not constitute such involvement.

Logistical services accordingly represent involvement in an armed operation if their provision exhibits a sufficiently specific proximity to the use of armed force.¹⁰⁵ General logistical services that are not related to hostilities in this way do not count as deployments for which approval is required. Nor is the provision of medical care immediately related to the use of weapons, even if its availability is a prerequisite for the conduct of an armed operation. If such care is provided outside an area of armed conflict and therefore without concrete danger to the

¹⁰¹ Wolfgang Wagner, Minutes of the Meeting on 11 September 2014, pp. 47 f. On the role of parliamentary assemblies in the exchange of information and opinions, cf. Felix Arndt, 'Parliamentary Assemblies, International', in Wolfrum (ed.), *Max Planck Encyclopedia of Public International Law*, March 2013, paras. 85, 111.

¹⁰² Cf. section 4.3. above, p. 24.

¹⁰³ *BVerfGE* 121, 135 (161) – AWACS Turkey.

¹⁰⁴ *BVerfGE* 121, 135 (168) – AWACS Turkey.

¹⁰⁵ *BVerfGE* 121, 135 (165) – AWACS Turkey.

servicewomen and men in question, it is therefore not usually subject to the requirement of parliamentary approval. The recommended clarifications would be of significance not least for the treatment of current and possible future multilateral composite capabilities in the fields of logistics and medical care.

From the point of view of the Commission, a legislative clarification of when, and for what reasons, training missions are subject to the requirement of parliamentary approval would be consonant with the increasing significance of this type of deployment, which will also be an important building block of security policy in future, especially within the EU. According to the current legal situation, training missions do not need to be mandated on account of the purposes for which they are carried out. However, they may require the approval of the Bundestag if service personnel are deployed in a dangerous environment and there is a concrete expectation that armed self-protection measures will be implemented.

Observer missions too are among the types of missions whose potential for escalation and involvement in armed operations is usually low. In consequence, they can be distinguished from, for instance, peace missions with a broadly understood authorisation to act in self-defence. According to the case law of the Federal Constitutional Court, missions with such authorisation are subject to the requirement of parliamentary approval.¹⁰⁶

The fact that no involvement in an armed operation is typically anticipated on the above-mentioned types of deployment in no way alters the fact that the German Federal Government is to inform the Bundestag about such missions under its existing obligations to furnish information. In particular, there is a need for the committees responsible to deliberate on them in good time, not least so that parliament is able to scrutinise whether approval by the Bundestag is exceptionally required. A comprehensive obligation to furnish information about missions conducted under the EU's Common Security and Defence Policy already derives from Section 7 of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union.

The Commission therefore recommends that the Parliamentary Participation Act be amended as follows:

7.1. Amendment of Section 2 of the Parliamentary Participation Act

Section 2 shall be amended as follows:

1. In paragraph 1 the words 'or anticipated involvement' shall be deleted and the words 'or activities in which there is a concrete expectation of such involvement' inserted after 'armed operations'.

Explanatory Remarks:

The formulation in the current Section 2(1) goes back to the decision handed down by the Federal Constitutional Court in 1994 (*BVerfGE* 90, 286 (388) – *Bundeswehr Deployments Abroad*). The revised text clarifies the intention of this passage by incorporating a formulation taken from the case law of the Federal Constitutional Court (*BVerfGE* 121, 135 (164 ff.) – *AWACS Turkey*).

2. Paragraph 2 shall be worded as follows:

'Involvement in an armed operation shall not be expected during:

1. preparatory and planning measures, including the activities of reconnaissance teams;
2. a) humanitarian relief and support operations conducted by the armed forces,
b) logistical support unrelated to hostilities,
c) the provision of medical care outside an area of armed conflict,
d) training missions,
if weapons are borne solely for the purposes of self-defence and/or for training purposes;
3. observer missions led by the United Nations or any other system of mutual collective security that, on account of their limited risks, do not have the power to take armed measures to enforce an operational mandate and on which weapons are borne solely for the purposes of self-defence.'

¹⁰⁶ *BVerfGE* 90, 286 (387 f.) – *Bundeswehr Deployments Abroad*.

Explanatory remarks:

The revised version of paragraph 2 stipulates that no involvement in an armed operation is expected during preparatory and planning measures, and certain types of deployment. The participation of German servicewomen and men in such deployments therefore does not require the approval of the Bundestag under Section 1(2) either, unless this legislative presumption is proven incorrect by concrete circumstances. This legal mechanism is to express the systematic interaction of paragraphs 1 and 2 with greater clarity than the current partial repetition of the preconditions for an assignment to be categorised as an armed deployment.

The new point 1 of paragraph 2 makes it clear that reconnaissance teams are classified as preparatory and planning measures. Under the current legal situation, this has not been clear because the first indent of Section 4(3) of the Parliamentary Participation Act allows reconnaissance teams to be dealt with using the simplified approval procedure. This was based on the assumption that reconnaissance teams might require the approval of the Bundestag if they were deployed to dangerous environments in which it was anticipated that they would be involved in armed combat. In the light of the experience that has been gained since the Parliamentary Participation Act entered into force, it is assumed that reconnaissance teams are typically not deployed to such environments. In consequence, separately mandated reconnaissance teams have not been deployed in practice.

Point 2 of the amended paragraph 2 initially extends the catalogue of missions on which involvement in an armed operation is not typically expected and that therefore do not *per se* represent an armed deployment within the meaning of the Parliamentary Participation Act with the following examples: logistical support unrelated to hostilities (litera b), the provision of medical care outside an area of armed conflict (litera c) and training missions (litera d).

Missions of these types might also require approval in the individual case if, on account of the military hazard situation, there is exceptionally a concrete expectation that servicewomen and men will be involved in armed operations.

Furthermore, the Bundestag's approval is required for logistical support that is related to hostilities. This might be the case in particular when individuals or weapons are flown into a zone of active hostilities in connection with an ongoing deployment. The same is true for the refuelling of combat aircraft during a concrete operational flight. By contrast, one example of logistical support that is usually sufficiently far removed from hostilities is the provision of air transport capacities in the build-up to a United Nations peace mission.

The formulation 'provision of medical care outside an area of armed conflict' relates in particular to the provision of acute clinical care (Level 3 care in the NATO nomenclature) and, depending on the hazard situation on the ground, emergency surgery (Level 2 care). It also covers the transportation of casualties from field hospitals to safe environments in their home states.

Point 3 extends the scope of the legislation to participation in observer missions led by the United Nations or another system of mutual collective security provided, on account of the limited risk they faced, the servicewomen and men who have been deployed have no powers to carry out armed measures to enforce a mission's mandate. There is typically no concrete danger of involvement in armed operations, no danger of escalation and/or no concrete probability of a self-defence situation on such missions. In consequence, they do not require approval.

No explicit maximum number of personnel is set. The size of an observer mission might be a possible indicator as to whether the mission's risk is to be assessed as sufficiently limited for privileged treatment under point 3. However, a maximum number of personnel would not do justice to the complexity of decisions that involve forecasting whether such dangers are to be anticipated.

Apart from the United Nations, NATO and the EU are viewed as systems of mutual collective security. In future, the legislation could also find application to OSCE observer missions on which German servicewomen and men serve and are armed for the purposes of self-defence.

7.2. Ancillary amendment to Section 4(3) of the Parliamentary Participation Act on reconnaissance teams

Section 4 shall be amended as follows:

The first indent of paragraph 3 shall be deleted.

Explanatory remarks:

The removal of reconnaissance teams from the scope of the simplified procedure is an ancillary amendment consequent upon the clarification proposed in point 1 of Section 2(2), under which reconnaissance teams are not deployments that required approval.

8. Recommendations concerning the formulation of mandates

8.1. Scope for the configuration of mandates

The Commission recommends that the German Federal Government make greater use of the scope it already enjoys when formulating requests for the approval of armed deployments so that it is able to respond with greater flexibility to certain developments during the term of a mandate. This relates, in particular, to the maximum number of servicewomen and men to be deployed, the determination of the deployment area and the specification of the capabilities of the armed forces to be deployed.

It would be consonant with the constitutional division of responsibilities between parliament and the government for mandates to be worded in ways that give the German Federal Government leeway when implementing a mission's strategic goals. The collaboration on decision-making between parliament and the government instituted by the requirement of parliamentary approval¹⁰⁷ relates to strategic decisions about whether military force should be applied. The Bundestag will continue to share responsibility for these decisions.¹⁰⁸ However, the case law of the Federal Constitutional Court emphasises that decisions about the concrete arrangements for, and scale of, a deployment remain the sole responsibility of the Federal Government.¹⁰⁹ Against this background, the fact that mandates are formulated by the Federal Government and cannot be amended by parliament also serves to protect the sphere of executive responsibility.

Mandates that allow the German Federal Government leeway when implementing a mission's goals may be desirable because they allow the Bundestag to participate in decision-making at a sufficiently early stage in the process. For instance, the Federal Constitutional Court points out that, for reasons of 'procedural safeguarding', parliamentary participation usually has to take place at a point in time when the material decision about the application of armed force has still not been taken.¹¹⁰ Under certain circumstances, however, it may only be possible for parliament to participate in decisions in good time when operative details have still not been conclusively clarified.

Various instruments are available that allow the maximum number of personnel to be determined with greater flexibility. The maximum number of personnel can initially be set with sufficient latitude for the numbers required under various possible scenarios. This would result in the number of servicewomen and men deployed normally being markedly below the maximum number of personnel allowed for in the mandate.

Furthermore, it is possible to explicitly provide for a reserve that allows the number of personnel deployed to be increased for a certain period or a certain purpose. This applies in particular if Germany has assumed special responsibility for the success of a deployment as a framework nation. First and foremost, this responsibility means responding to changing situations in the short term and/or closing gaps that open up, certainly for a transitional period.

As a rule, open descriptions that permit adaptation to operational developments should also be used when the operational area is determined.

The Commission has not failed to recognise that it will not always be an easy matter to draw a distinction between fundamental decisions and the concrete operational measures taken to implement them. Under the current provisions on the furnishing of information, the granting of greater scope for the wording of mandates would therefore be accompanied by an obligation to inform the Bundestag about the ways in which that scope was used and what

¹⁰⁷ *BVerfGE* 123, 135 (161) – *AWACS Turkey*.

¹⁰⁸ *BVerfG*, Order of 13 October 2009 – *KFOR*, online: http://www.bverfg.de/entscheidungen/es20091013_2bve000408.html, para. 18 (English press release, online: <http://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2009/bvg09-122.html>).

¹⁰⁹ *BVerfGE* 90, 286 (389) – *Bundeswehr Deployments Abroad*; 123, 135 (161 f.) – *AWACS Turkey*.

¹¹⁰ *BVerfGE* 123, 135 (167), para. 80 – *AWACS Turkey*.

changes in the situation had driven them. This would enable parliament to identify whether the strategic parameters for the deployment were respected when the scope allowed was being exploited to the full. This distinction would be all the easier to make the more clearly the mandate specified the scenarios for which flexibility would be required.

8.2. Specific kinds of flexibility required by United Nations peace missions

Specific kinds of flexibility may come to be required when German participation in United Nations peace missions is mandated. The Commission recommends that the United Nations' requirements in this respect be taken into consideration.

For example, the provision of logistical support should be mandated pre-emptively.¹¹¹ This could be done when there were reasonable grounds to believe the United Nations would be likely to request such assistance during the forthcoming mandate period. It would not be necessary for it to already be certain at what specific point in time such a request would be made.

It may also be one indication that greater flexibility is required if there is evidence of discussions with the potential to bring about changes in a mission's requirements already taking place at the United Nations level when the national mandate for the mission is extended. In order to organise efficiently how the schedules followed at the United Nations and national levels fit together, allowances should then be made for developments foreseeable when the request is formulated, thus ensuring there is no need to adopt a renewed mandate a short time later.

Particular flexibility may be needed, for example, in the case of peace missions if the initial crisis response is led by the EU and undertaken by an EU Battlegroup, which is then replaced by a United Nations-led peace mission. It may be necessary to continue to draw on these forces and the German personnel who are serving with them to build up the UN-led mission. When the initial mandate is being formulated, it should therefore be examined whether the transfer of command to the United Nations can be anticipated in the mandate. This would, firstly, make it possible to dispense with a renewed short-term mandate and, secondly, it could make it easier for Germany and/or the EU to bring themselves to bear on the planning of the UN-led mission with greater weight at an early stage.

In view of the United Nations' practice of making certain capabilities available to a number of peace missions (intermission cooperation), particularly in the field of logistics, the Commission recommends that these requirements be taken into consideration where possible when mandates are formulated. For instance, provision could be made for particular capabilities to be deployed temporarily to support other specific United Nations missions. This would seem expedient in particular if the United Nations had already specified which missions such intermission cooperation should take place between.¹¹²

9. Strategic debate about greater commitment to United Nations peace missions

In the estimation of the Commission, the United Nations' need for high-value military capabilities for peacekeeping operations will tend to rise further. If Germany wishes to take on more responsibility in this field, especially in cooperation with its European partners, a series of strategic decisions will have to be taken about how this goal is to be achieved. In particular, it will be necessary to address questions about the capabilities with which Germany wishes to commit itself, which partners it wishes to collaborate with, and in which regions and under which crisis scenarios it wishes to take action.

Against this background, the Commission suggests it be examined whether Germany is able to specify particular capabilities with which it would typically prefer to particularly commit itself when peace missions are conducted. These could form the core of the German contribution to missions in which Germany wishes to play a part without this necessarily meaning that Germany's input would be narrowed down to these specialised capabilities. A profile

¹¹¹ One example of such a mandate is the precautionary incorporation of transport capabilities into the request for the continuation of participation in the UN MINUSMA mission (Bundestag Printed Paper 18/1416), although the relevant aircraft had initially been stood down from the operational deployment when the preceding mandate expired.

¹¹² This approach has already been taken in the request forwarded by the German Federal Government for participation in the UNMIL mission in Liberia, Bundestag Printed Paper 18/4768, points 2, 3, 7.

of this kind could develop into Germany's trademark in the field of peace missions and, in this way, enhance the visibility of German contributions.

Cooperation with European partners will also be of considerable significance if Germany is to strengthen its commitment to the United Nations. For instance, Germany could take over particular, possibly functionally similar or spatially adjacent components of a peace mission in collaboration with European partners. Further to this, multi-lateral composite capabilities could be created in particular fields that would also be significant for deployments on peace missions. The development of such capabilities could build on ideas from the Plan of Action to enhance EU CSDP support to UN peacekeeping, according to which the EU would provide particular modules for United Nations peace missions or support the provision of a capability by a group of Member States.¹¹³ For example, an EU Battlegroup could form one possible component in a mission.

The Commission recommends that the Bundestag participate in this strategic discussion in a suitable form.

10. Consideration of non-military components of multidimensional crisis response deployments

Initially, the constitutive requirement of parliamentary approval shifts the focus of parliamentary and public attention onto the military dimension of the international response to a crisis. A substantive, responsible political debate about the meaning and purpose of such an armed mission must, however, discuss it in the light of the general political concept in which it is embedded. In this respect, there is a need to look, in particular, at the civilian components without which sustainable crisis management is not possible. They include, among other things, the provision of humanitarian aid, measures to build functioning state structures and improve the human rights situation, and the deployment of police officers. Consideration is also to be given to the interfaces integral to civilian-military cooperation. Against this background, it is precisely the configuration of non-military elements, for example their capabilities and equipment, that is of significance for the effectiveness of a military deployment, which always has to be embedded in a general conception.

Meaningful information about the civilian components of a crisis response and the deliberations on it in parliament would contribute to understanding of the general concept under which a military deployment is conducted. This could be a relevant building block for broader, lasting acceptance of the goals of an international commitment among the public. Beyond the specific deployment, this could grow into something that contributes to the continuous renewal of the consensus on security policy, a consensus that, not least, forms the foundation and framework for progressive Alliance integration and the reliable availability of multilateral composite military capabilities.

The Commission therefore recommends that the civilian tasks and components of more extensive, multidimensional crisis response missions be accorded greater attention in the parliamentary deliberations on deployments of the armed forces. This would also give the German Federal Government the occasion to demonstrate that military deployments are integrated into an overall strategy and not isolated acts taken by individual states or for reasons of Alliance solidarity.

The parliamentary deliberations and any decisions about aspects of non-military components to which they led would not have the purpose of extending the constitutive requirement of parliamentary approval to civilian and/or police deployments abroad. The subject of the mandates for which parliament would bear joint responsibility would remain solely the deployment of the armed forces.

¹¹³ See section 5.2.2. above, p. 29.

11. Simplified procedure

11.1. Organisation of the procedure

11.1.1. On the distinction between the simplified procedure and approval for the substance of the request

The Commission views the simplified procedure (Section 4 ParlBG) as an appropriate and differentiated mechanism under which the Bundestag can approve armed forces deployments of minor scope and intensity. It makes it possible to reduce the workload of parliamentary deliberations and priority-setting without calling into question the Bundestag's continued role bearing joint responsibility for these mandates. This is true, in particular, for the extension of mandates that have not been amended (Section 7(1) ParlBG).

For this reason, the Commission regrets that since 2006 no further use has been made of this legitimate mechanism, which is provided for in the legislation to facilitate the mandating procedure. From the Commission's perspective, one factor in this is that, according to the provisions in the legislation, silence is interpreted as implicit approval. One reason for demanding a request be debated by the Bundestag is therefore that this offers an opportunity to express a dissenting view of the matter.

In order to improve the acceptance of the simplified procedure in future, the Commission recommends that recourse be had to the parliamentary convention that a parliamentary group can declare it agrees to a request being dealt with using the simplified procedure, but not give its approval to the substance of the request. If such a declaration is delivered, it should be published in the record of proceedings when it is announced that approval has been granted using the simplified procedure. The same procedure should be followed when such declarations are delivered by individual parliamentarians, irrespective whether they reach the quorum of five per cent of the Members of the German Bundestag required to demand that parliament debates a deployment.

In order to support increased acceptance for the simplified procedure, the German Federal Government could for its part explicitly state in the covering letters with which it forwards requests for approval to the President of the German Bundestag that, firstly, it wishes to ask for these requests to be dealt with using the simplified procedure and, secondly, it is asking for the requests to be approved. This would make it clear that, as the Federal Government understands the situation, approval for the procedure does not necessarily mean approval for the substance of the request.

The Commission suggests that reference be made to the approach to the organisation of the procedure discussed above in the general part of the explanatory memorandum to an Act Amending the Parliamentary Participation Act.

11.1.2. On the size of the quorum for a debate in the Bundestag

The Commission has also discussed changing the quorum with which a debate in the Bundestag can be demanded when a request is made using the simplified procedure. For instance, it would be conceivable for the quorum to be raised from one parliamentary group or five per cent of the Members of the Bundestag to two parliamentary groups or 20 per cent of the Members of the Bundestag.

These ideas have not been pursued further at the current point in time for the following reasons. The current legal situation is that the right to demand the Bundestag hold a debate on a request is one of the minority rights that can be exercised by a parliamentary group. In so far as this is the case, it is to be taken into consideration that a sustainable reform of the simplified procedure would require broad acceptance that extended beyond the two big parliamentary groups if it were to have any practical effectiveness. The Commission is confident that it would be possible for the simplified procedure to be reactivated in practice on the basis of its recommendation, so further-reaching measures are not required at the current point in time.

The procedural simplification that can be achieved by using the simplified procedure is attributable to the fact that it is possible for approval to be granted without a parliamentary debate.¹¹⁴ In practice, however, the Bundestag is

¹¹⁴ By contrast to this, a time saving would not necessarily be achieved with the simplified procedure.

only able to decide not to conduct a parliamentary debate about an armed deployment if there is consensus on this between all the parliamentary groups. Firstly, any parliamentary group could table a motion that called for the approval given to a deployment of the armed forces to be revoked (Section 8 ParlBG), which would then have to be deliberated on in a timely fashion. Secondly, any parliamentary group could demand a debate on matters of topical interest about a deployment that had been approved using the simplified procedure.

11.2. On the scope of the simplified procedure

During the Commission's deliberations, some of its members proposed that the scope of the simplified procedure be expanded. This proposal would mean it would also be possible for the simplified procedure to be applied if the German Federal Government requested approval for the deployment of individual multilateral composite military capabilities under the auspices of a system of mutual collective security. The Bundestag's approval for the deployment of these multilateral composite capabilities would then be granted in a two-stage procedure. The first stage would be to give abstract consent for the applicability of the simplified procedure in the course of the debate about the report on multilateral composite military capabilities and the second stage would be to approve the concrete deployment using the simplified procedure.

The majority of the Commission did not support this proposal, in particular for the following reasons: The simplified procedure is to remain reserved for deployments of minor scope and intensity. However, deployments of important multilateral composite capabilities such as AWACS or the mobile elements of staff units and headquarters in an operational area do not fall within this category. This is especially true if a multilateral military composite capability is deployed as part of a larger mission led by members of the Alliance, as would have been the case on Operation Unified Protector for instance. Furthermore, the aim of the reports on multilateral composite military capabilities is not to anticipate the legitimization of a future deployment, but primarily to attract greater attention to the political commitments entered into in the course of Alliance integration. This process is to facilitate the debate held on a deployment, but certainly not replace it, as would happen under the simplified procedure. Not least, the simplified procedure currently has very little practical effectiveness¹¹⁵ and is therefore not a suitable way of making the availability of multilateral composite military capabilities more reliable. A reactivation of the simplified procedure will only have any prospect of success if the scope of this procedure is not extended.

12. Furnishing of information to the Bundestag

12.1. Stocktake assessments and interdepartmental evaluation

The Commission proposes the following amendment of Section 6 of the Parliamentary Participation Act:

Section 6 shall be amended as follows:

1. The following new paragraphs 2 and 3 shall be inserted after paragraph 1:

‘(2) When setting out the grounds for requests for the extension of decisions to approve deployments, the Federal Government shall submit stocktake assessments of the deployments in question to the Bundestag. In these reports, it shall also address the development of the political and humanitarian situation in the operational area.

(3) Following the conclusion of a deployment, the Federal Government shall submit an interdepartmental evaluation report that assesses the effectiveness of the mission's military and civilian components to the Bundestag.’

2. The current paragraph 2 shall be renumbered paragraph 4.

Explanatory remarks:

The new paragraph 2 introduces an obligation to submit stocktake assessments into the provisions on the obligations to furnish information (Section 6). The newly inserted paragraph 3 relates to the submission of an evaluation report following the conclusion of a deployment. Both obligations to furnish information are already foreseen in the explanatory memorandum to the Draft Parliamentary Participation Act (Bundestag Printed Paper 15/2742, p.

¹¹⁵ See section 4.1.3. above, p. 22.

6). However, the Federal Government has made the point that these concrete mechanisms were not embodied in the text of the legislation and therefore have no binding force (Answer of the German Federal Government, Bundestag Printed Paper 16/3740, pp. 2, 4, 5).

The function of the stocktake assessment when the grounds for requesting the extension of a deployment are being set out is to make structured key information available about the deployment in question and use it to offer an assessment of the mission's effectiveness. As a rule, a stocktake is predicated on the formulation of transparent indicators. These cannot be prescribed in abstract terms, but have to be expressed in concrete forms that reflect the initial situation and the goals of the deployment in each case. The level of detail included in the stocktake assessment also depends on the type, scale and complexity of the mission.

The evaluation report is to be based on a comprehensive debriefing exercise on the deployment and, in particular, set out in a differentiated fashion the extent to which the goals pursued with the mission have been attained. This means asking what lessons can be drawn for future missions.

The obligation to submit indicator-based reports is informed by the development of relevant monitoring and evaluation standards in other members of the Alliance such as the Netherlands and Canada. Furthermore, if deployments are monitored and evaluated on the foundation of transparent indicators, this makes it easier for other Alliance partners to appreciate the exercise of political oversight by the Bundestag. Especially as far as the deployment of multilateral composite capabilities is concerned, it promotes the development of a shared fundamental understanding as the basis for assessing the deployment of such capabilities. This strengthens confidence in the reliability of the partners in these collaborations. In this way, indicator-based reports can have a contribution to make on the road to progressive Alliance integration.

The stocktake assessment and the evaluation are not to be restricted to the military aspects of a crisis response mission, but take an interdepartmental approach. This allows for the fact that crises ultimately cannot be resolved solely by military means. For this reason, any military crisis response has to be embedded in a general political concept that also involves crisis prevention and post-crisis rehabilitation. In this respect, among other things, the human rights situation in the country of deployment, the security situation, efforts to build functioning state institutions and the progress made in development cooperation are all significant factors. Particular significance is also accorded to questions about the extent to which the interfaces between civilian and military components functions and can be improved.

12.2. Furnishing of information on secret special forces operations

The Commission proposes that the following Section 6a be inserted into the Parliamentary Participation Act:

The following Section 6a shall be inserted after Section 6:

‘Section 6a Furnishing of Information on Secret Special Forces Operations

(1) The Federal Government shall orally inform the chairpersons and spokespersons of the committees responsible about secret operations of the special forces at an appropriate time. The spokespersons shall be entitled to share this information confidentially with the chairpersons of the parliamentary groups.

(2) In addition to this, following the conclusion of an operation, the Federal Government shall orally inform the committees responsible in a timely fashion and in an appropriate form about the aims and main results of the deployment. Operational details of the deployment and facts that would permit inferences to be drawn concerning the individuals who took part in it or the capabilities of the special forces and their Alliance partners shall not be included in the information furnished. Alliance partners' interests in the security of classified material are to be protected.

(3) The Bundestag shall take account of concerns about the security of classified material by dealing with such material confidentially in accordance with its Rules on Document Security.’

Explanatory remarks:

The practice currently followed when information is furnished about secret special forces operations is founded on an agreement reached by the German Federal Government with the parliamentary group chairpersons in November 2006. According to this agreement, the Federal Government informs the chairpersons, deputy chairpersons and spokespersons of the Defence Committee and the Committee on Foreign Affairs on a confidential basis prior to any deployment of special forces and following the conclusion of important individual operations, as soon and as far as this is possible without endangering the deployment, the service personnel or their families. The spokespersons are authorised to share this information confidentially with the parliamentary group chairpersons (cf. the Answer of the German Federal Government to the Minor Interpellation Tabled by the Left Party Parliamentary Group, Bundestag Printed Paper 16/6157, p. 2). With its resolution of 4 December 2008, the Bundestag adopted this practice and, in addition to this, called upon the Federal Government to furnish summary information about special forces deployments every six months. Furthermore, it argued information should also be provided about deployments of the Special Forces Command (KSK) under the reporting obligations on individual mandates (Bundestag Printed Paper 16/11230).

Paragraph 1 incorporates the practice currently followed when information is furnished into the Parliamentary Participation Act. According to the current division of responsibilities, the committees responsible are the Committee on Foreign Affairs and the Defence Committee. In order to guarantee the security of classified material is protected, provision is made for the information to be furnished to the spokespersons and/or the competent committees in an oral form. The point in time when the information is furnished depends, in particular, on the requirements of operational security. In so far as possible, the chairpersons and spokespersons are to be informed prior to or at the beginning of each deployment in line with current practice.

Paragraph 2 supplements the furnishing of information under paragraph 1 with the subsequent oral furnishing of information to the committees responsible. This has to be done in a timely fashion following the conclusion of the deployment. It is not absolutely essential for information to be furnished immediately because, in particular, considerations of operational security might influence the precise point in time when information is furnished. Information is to be furnished in an appropriate form. This makes it possible for the depth of the information furnished to be adjusted to the circle of recipients, which is larger than that provided for in paragraph 1.

The second sentence of paragraph 2 gives concrete form to this provision and exempts particular information explicitly from the furnishing of information to the committees. The operational details of a deployment include, for example, the number of servicewomen and men deployed, and the ways in which the deployment has been prepared and carried out. The exclusion of facts that allow inferences to be drawn about the participating individuals serves to protect the servicewomen and men involved. Information that makes it possible to draw inferences about the capabilities of the special forces and may consequently endanger the conduct of future deployments is not covered by the furnishing of information.

The third sentence makes it clear that other Alliance members' interests in the protection of confidential material are to be protected. The background to this is that a significant proportion of the operations conducted by Germany's special forces are undertaken in collaboration with other members of the Alliance. Their ability to cooperate is not to be compromised by the information furnished to the Bundestag.

Paragraph 3 provides for the Bundestag to respond to concerns about the security of classified material by handling such material confidentially. This makes it possible for deliberations to be conducted on classified material of all levels, depending on the factual position.

13. Process of reflection on the constitutional foundations for deployments of the armed forces

Prompted not least by the deliberations on the mandate for training activities in Iraq, the question of the constitutional foundations for deployments of the armed forces became a subject of political discussion during the ongoing work of the Commission.

According to the case law of the Federal Constitutional Court, deployments of the armed forces are permissible for the purposes of defence (Article 87a(2) Basic Law), and under the auspices of and subject to the rules of systems of collective security (Article 24(2) Basic Law).¹¹⁶ The great majority of deployments fall within this

¹¹⁶ BVerfGE 90, 296 (345) – Bundeswehr Deployments Abroad.

undisputed framework. Further to this, the constitutional boundaries have not been clarified conclusively.¹¹⁷ Firstly, in its 1994 ruling on Bundeswehr deployments abroad, the Federal Constitutional Court ultimately left it open whether Article 87a(2) of the Basic Law is applicable to all deployments of the armed forces or only such deployments within Germany.¹¹⁸ Secondly, the implications of the term ‘defence’ continue to be the subject of constitutional discussion, for instance the extent to which, beyond the defence of the Alliance, it encompasses situations of collective self-defence governed by Article 51 of the Charter of the United Nations or the rescue of German citizens from dangerous situations abroad.¹¹⁹

In the unanimous opinion of the Commission’s members, more in-depth discussion of the relevant constitutional parameters would exceed the Commission’s mandate. These issues are, however, linked generally with parliamentary participation because the constitutional foundations represent an important aspect of political decision-making when deliberations are conducted on the mandating of deployments. With this in mind, the Commission believes questions about the need to reform the provisions of the Basic Law relating to the armed forces and the options for such reforms to be significant.

The Commission therefore recommends that the German Bundestag deliberate on a possible reform of the constitutional framework for Bundeswehr deployments abroad in a suitable procedure.

14. Complementary organisational measures within the administration

The measures proposed by the Commission are aimed at ensuring continual parliamentary oversight of progressive Alliance integration and Germany’s commitment to United Nations peace missions, as well as strengthening the Bundestag’s fulfilment of its ongoing shared responsibility for the deployment of the armed forces. The volume of information to be dealt with by the Bundestag will also increase as these goals are pursued.

The structured, sustainable collation of this information and the creation of an ‘institutional memory’ are not just tasks for the Bundestag’s parliamentary groups, but are to be categorised as administrative functions, not least for reasons of effectiveness.

The Commission therefore suggests that the Bundestag and its parliamentary groups examine what organisational measures within the administration would be suitable to achieve these goals.

15. Furnishing of information on the EU’s Common Security and Defence Policy to the Bundestag

Following the relevant provisions in Article 23(2) of the Basic Law, the first sentence of Section 7(1) of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union requires the German Federal Government to provide the Bundestag with comprehensive, continuous information as early as possible, among other things about the EU’s Common Security and Defence Policy. This information is to comprise the forwarding of a summary of legislative acts that are due to be the subject of discussion, an appraisal of these legislative acts and a prognosis of the further course of discussions (what is known as an indicative forecast, third sentence of Section 7(1) EUZBGG). In this respect, only binding Council decisions in the realm of foreign policy (in particular decisions on restrictive measures or the establishment of civilian or military missions) are viewed as legislative acts.

To date, the German Federal Government has been of the opinion that the obligation to furnish information is exhausted by this indicative forecast. More extensive forwarding of EU documents on the basis of the first sentence of Section 7(1) of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union is rejected. However, the explanatory memorandum to the 2009

¹¹⁷ A number of problematic situations are summarised in Michael Bothe, ‘Die parlamentarische Kontrolle von Auslandseinsätzen der Streitkräfte’, in Hufen (ed.), *Festschrift für H.-P. Schneider*, 2008, p. 165; Georg Nolte, ‘Kosovo und Konstitutionalisierung: Zur humanitären Intervention der NATO-Staaten’, *HJIL* 59 (1999), 941. For arguments in favour of a clarificatory amendment of the Basic Law, see Eckart Klein, ‘Bemerkungen zur Rechtsprechung des Bundesverfassungsgerichts zum Auslandseinsatz deutscher Streitkräfte’, in Fischer-Lescano *et al.* (eds.), *Frieden in Freiheit*, 2008, p. 157.

¹¹⁸ *BVerfGE* 90, 286 (355) – *Bundeswehr Deployments Abroad*.

¹¹⁹ On the significance of Article 51 of the UN Charter, see Heike Krieger, in Schmidt-Bleibtreu/Hofmann/Henneke, *Grundgesetz*, 13th ed., 2014, ‘Art. 87a’, para. 12; Otto Deppenheuer, in Maunz/Dürig, *Grundgesetz*, supplement 72, 2014, ‘Art. 87a’, paras. 199 f.; *BVerwGE* 127, 302 (312 f.). On the rescue of German citizens, see Volker Epping, in *BeckOK GG*, ‘Art. 87a’, para. 10; Juliane Kokott, in Sachs, *Grundgesetz*, 7th ed., 2014, ‘Art. 87a’, paras. 26 f.

EUZBBG makes it clear that the reference to the indicative forecast is merely intended to highlight the significance of early warning mechanisms under the CFSP and CSDP as well. It therefore cannot be deduced from the third sentence of Section 7(1) of the Act that the obligations to furnish information are to be reduced to this indicative forecast.

Furthermore, Section 7(2) of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union provides for the German Federal Government to formally forward documents of fundamental importance to the Bundestag on request. If this obligation to furnish information is to have any practical effectiveness, the precondition is that the Federal Government has notified the Bundestag generally about developments of fundamental significance and the documents on these developments it has at its disposal.

Against this background, the Commission supports the unanimous opinion of the parliamentary groups in the Bundestag that Section 7 of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union is to be applied in a parliament-friendly fashion in practice.

Part Four – Synopsis of Amendments to the Parliamentary Participation Act

Parliamentary Participation Act of 18 March 2005 (<i>Federal Law Gazette I</i> , p. 775)	Commission proposals for the amendment of the Parliamentary Participation Act
Section 1 General and Common Provisions	Section 1 General and Common Provisions
<p>(1) This Act regulates the form and extent of the Bundestag's participation in decisions concerning the deployment of German armed forces abroad. Article 115a of the Basic Law shall remain unaffected.</p> <p>(2) The deployment of German armed forces outside the area of application of the Basic Law shall require the German Bundestag's approval.</p>	<p>U n a m e n d e d</p> <p>U n a m e n d e d</p>
Section 2 Definition of Terms	Section 2 Definition of Terms
<p>(1) A deployment of armed forces shall be defined as the involvement, or anticipated involvement, of Federal Armed Forces personnel in armed operations.</p> <p>(2) <i>Preparatory and planning measures shall not constitute "deployment" for the purposes of this Act. Such measures shall not require the Bundestag's approval. The same shall apply to the conduct, by the armed forces, of humanitarian relief or support operations in which arms are borne solely for the purposes of self-defence, provided that no involvement of the service personnel in armed operations is anticipated.</i></p>	<p>(1) A deployment of armed forces shall be defined as the involvement of Federal Armed Forces personnel in armed operations or activities in which there is a concrete expectation of such involvement.</p> <p>(2) Involvement in an armed operation shall not be expected during:</p> <ol style="list-style-type: none"> 1. preparatory and planning measures, including the activities of reconnaissance teams; 2. a) humanitarian relief and support operations conducted by the armed forces, b) logistical support unrelated to hostilities, c) the provision of medical care outside an area of armed conflict, d) training missions, if weapons are borne solely for the purposes of self-defence and/or for training purposes; 3. observer missions led by the United Nations or any other system of mutual collective security that, on account of their limited risks, do not have the power to take armed measures to enforce an operational mandate and on which weapons are borne solely for the purposes of self-defence.

	Section 2a Service in Military Staff Units and Headquarters
	No approval from the German Bundestag shall be required for Bundeswehr personnel to perform functions in integrated or multinationally manned headquarters, agencies and staff units formed by NATO, the EU or any other organisation of mutual collective security, provided they are not present in an area of armed conflict or personally operate weapons that have been deployed there while performing such functions.
Section 3 Request for Deployment	Section 3 Request for Deployment
<p>(1) The Federal Government shall forward its request for approval of a deployment of the armed forces to the Bundestag in good time, prior to the start of deployment.</p> <p>(2) The Federal Government's request shall contain the following details in particular:</p> <ul style="list-style-type: none"> – the operational mandate, – the operational area, – the legal bases for the mission, – the maximum number of service personnel to be deployed, – the capabilities of the armed forces to be deployed, – the planned duration of the mission, – the anticipated costs and funding arrangements. <p>(3) The Bundestag may approve or reject the request. Amendments to the request shall not be permissible.</p>	<p style="text-align: center;">U n a m e n d e d</p> <p style="text-align: center;">U n a m e n d e d</p> <p style="text-align: center;">U n a m e n d e d</p>
Section 4 Simplified Approval Procedure	Section 4 Simplified Approval Procedure
<p>(1) For deployments of minor scope and intensity, approval may be granted in a simplified procedure. The Federal Government must give reasons why the proposed deployment is of minor scope and intensity. The President of the German Bundestag shall refer the request for approval to the chairpersons of the parliamentary groups, the chairpersons of the Committee on Foreign Affairs and Defence Committee and one spokesperson of each parliamentary group on these committees, and shall arrange for the request to be distributed to all Members of the Bundestag as a printed paper. Approval shall be deemed to be granted unless, within seven days of the printed paper's distribution, a parliamentary group or five per cent of the Members of the Bundestag demand that</p>	<p style="text-align: center;">U n a m e n d e d</p>

<p>the Bundestag hold a debate. If a debate is demanded, the decision shall lie with the Bundestag.</p> <p>(2) A deployment shall be deemed to be of minor scope and intensity if the number of service personnel deployed is small, it is apparent from the accompanying circumstances that the deployment is of minor significance, and it does not entail any participation in warfare.</p> <p>(3) As a rule, a deployment shall be regarded as being of minor scope and intensity if:</p> <ul style="list-style-type: none"> – it involves a reconnaissance team bearing arms solely for the purpose of self-defence, – it involves individual service personnel who are serving with allied armed forces on the basis of exchange agreements, or – it involves the deployment of individual service personnel within the framework of a mission led by the UN, NATO or the EU, or by another organisation in fulfilment of a UN mandate. 	<p style="text-align: center;">U n a m e n d e d</p> <p>(3) As a rule, a deployment shall be regarded as being of minor scope and intensity if:</p> <ul style="list-style-type: none"> – it involves individual service personnel who are serving with allied armed forces on the basis of exchange agreements, or – it involves the deployment of individual service personnel within the framework of a mission led by the UN, NATO or the EU, or by another organisation in fulfilment of a UN mandate.
<p>Section 5 Ex-post Approval</p>	<p>Section 5 Ex-post Approval</p>
<p>(1) Deployments in the event of imminent danger which allow no scope for delay shall not require the Bundestag's prior approval. The same shall apply to operations whose purpose is to rescue persons from particularly dangerous situations, provided that the holding of a public debate in the Bundestag would endanger the lives of the persons in need of rescue.</p> <p>(2) The Bundestag shall be informed appropriately prior to and during deployment.</p> <p>(3) The Bundestag's <i>ex-post</i> approval for the deployment must be sought promptly. If the Bundestag rejects the request for approval, the ongoing operation must be terminated.</p>	<p style="text-align: center;">U n a m e n d e d</p> <p style="text-align: center;">U n a m e n d e d</p> <p style="text-align: center;">U n a m e n d e d</p>
<p>Section 6 Obligation to Furnish Information</p>	<p>Section 6 Obligation to Furnish Information</p>
<p>(1) The Federal Government shall inform the Bundestag regularly about the progress of the missions and about developments in the operational area.</p>	<p style="text-align: center;">U n a m e n d e d</p>
	<p>(2) When setting out the grounds for requests for the extension of decisions to approve deployments, the Federal Government shall submit stocktake assessments of the deployments in question to the Bundestag. In these reports, it shall also address the development of the political and humanitarian situation in the operational area.</p>

	<p>(3) Following the conclusion of a deployment, the Federal Government shall submit an interdepartmental evaluation report that assesses the effectiveness of the mission’s military and civilian components to the Bundestag.</p>
<p>(2) In cases dealt with in accordance with Section 4 (1) (Simplified Approval Procedure), the Federal Government shall report promptly to the committees responsible and to the spokespersons of the parliamentary groups represented on these committees.</p>	<p>(4) In cases dealt with in accordance with Section 4 (1) (Simplified Approval Procedure), the Federal Government shall report promptly to the committees responsible and to the spokespersons of the parliamentary groups represented on these committees.</p>
	<p>Section 6a Furnishing of Information on Secret Special Forces Operations</p>
	<p>(1) The Federal Government shall orally inform the chairpersons and spokespersons of the committees responsible about secret operations of the special forces at an appropriate time. The spokespersons shall be entitled to share this information confidentially with the chairpersons of the parliamentary groups.</p> <p>(2) In addition to this, following the conclusion of an operation, the Federal Government shall orally inform the committees responsible in a timely fashion and in an appropriate form about the aims and main results of the deployment. Operational details of the deployment and facts that would permit inferences to be drawn concerning the individuals who took part in it or the capabilities of the special forces and their Alliance partners shall not be included in the information furnished. Alliance partners’ interests in the security of classified material are to be protected.</p> <p>(3) The Bundestag shall take account of concerns about the security of classified material by dealing with such material confidentially in accordance with its Rules on Document Security.</p>
<p>Section 7 Extension of Deployment</p>	<p>Section 7 Extension of Deployment</p>
<p>(1) The procedure defined in Section 4 shall also apply to decisions to extend the approval of deployments in cases where no substantive amendments arise.</p> <p>(2) If the Federal Government requests the extension of a deployment, approval shall be deemed to be granted until two days of sittings have passed following distribution of the request as a Bundestag printed paper. If the request is dealt with in accordance with the simplified procedure defined in Section 4, approval shall be deemed to be granted until the expiry</p>	<p>U n a m e n d e d</p> <p>U n a m e n d e d</p>

of the time period defined in Section 4 (1), fourth sentence; if a debate in the Bundestag is demanded within the time period, approval shall be deemed to be granted until the end of the sitting week following the demand for a debate. The period of validity of the original approval shall remain unaffected by the provisions of the first and second sentences.	
Section 8 Right of Revocation	Section 8 Right of Revocation
The Bundestag may revoke its approval for a deployment of armed forces at any time.	U n a m e n d e d
	Section 9 Multilateral Composite Military Capabilities
	<p>(1) Each year, the Federal Government shall submit a report on current multilateral composite military capabilities whose availability is to be assured politically to the Bundestag. In its report, it shall detail the dependencies that are associated with the capabilities in question and the possible consequences that would arise for any envisaged deployment of these capabilities if Germany were not to participate.</p> <p>(2) The Federal Government shall inform the Bundestag as early as possible about the establishment of new multilateral composite military capabilities in which Bundeswehr service personnel are to serve. The Federal Government shall submit a report to the Bundestag following the conclusion of agreements or adoption of decisions concerning such capabilities.</p>
Section 9 Entry into Force	Section 10 Entry into Force
This Act shall enter into force on the day after its promulgation.	This Act shall enter into force on the day after its promulgation.

Berlin, 20 May 2015

Volker Rühle

Rainer Arnold

Prof. Matthias Herdegen

Dr. Hans-Peter Uhl

Walter Kolbow

Prof. James Davis

Roderich Kiesewetter

Wolfgang Schneiderhan

Niels Annen

Rainer Glatz

Prof. Georg Nolte

Prof. Wolfgang Zeh

Annexes

- Annex 1 Motion tabled by the CDU/CSU and SPD parliamentary groups: Creation of a “Commission on the Review and Safeguarding of Parliamentary Rights regarding Mandates for Bundeswehr Missions Abroad”, Bundestag Printed Paper 18/766
- Annex 2 Minutes of Plenary Proceedings – Excerpt from the Debate in the 23rd Sitting on 20 March 2014, Additional Item 6, pp. 1854-1863
- Annex 3 Overview of Commission Printed Papers
- Annex 4 Overview of Meetings Conducted
- Annex 5 Questionnaire: Questions for the Hearing of the German Federal Government on 4 June 2014, Commission Printed Paper 18(26)001
- Annex 6 Statement by State Secretary Dr. Markus Ederer, Federal Foreign Office, Commission Printed Paper 18(26)008
- Annex 7 Statement by Parliamentary State Secretary Christian Lange, Federal Ministry of Justice and Consumer Protection, Commission Printed Paper 18(26)009
- Annex 8 Statement by General Volker Wieker, Chief of Staff, Bundeswehr, Federal Ministry of Defence, Commission Printed Paper 18(26)014
- Annex 9 Catalogue of Questions Put by the Commission on Missions Abroad on 4 June 2014 – Answers from the Federal Ministry of Defence (BMVg) –, Commission Printed Paper 18(26)010
- Annex 10 Statement by Lieutenant General Heinrich Brauß, Assistant Secretary General for Defence Policy and Planning, NATO International Staff, Brussels, Commission Printed Paper 18(26)007 (neu)
- Annex 11 Statement by Rear Admiral Jürgen Ehle, Chairman of the European Union Military Committee Working Group, Commission Printed Paper 18(26)002
- Annex 12 Statement by Ambassador Martin Erdmann for the Hearing before the Commission on the Review and Safeguarding of Parliamentary Participation, Commission Printed Paper 18(26)015
- Annex 13 Statement by General Werner Freers, Chief of Staff, Supreme Headquarters Allied Powers Europe (SHAPE), Mons/Belgium, Commission Printed Paper 18(26)019 (neu)
- Annex 14 Statement by General (ret.) James L. Jones, Former National Security Advisor of the United States of America, Commission Printed Paper 18(26)018
- Annex 15 Statement by Councillor of State Jean-Claude Mallet, Former Special Advisor to the French Minister of Defence, Commission Printed Paper 18(26)017
- Annex 16 Statement by Joep Wijnands, Director of the Security Policy Department, Netherlands Ministry of Foreign Affairs, Commission Printed Paper 18(26)021
- Annex 17 Statement by the Expert Witness Dominique David, French Institute of International Relations (Ifri), Commission Printed Paper 18(26)016d
- Annex 18 Statement by the Expert Witness Dr. Markus Kaim, Senior Fellow, Research Division International Security, German Institute for International and Security Affairs (SWP), Commission Printed Paper 18(26)016e (neu)
- Annex 19 Written Statement by the Former Member of the German Bundestag Winfried Nachtwei for the Hearing of the Commission on the Review and Safeguarding of Parliamentary Rights regarding Mandates for Bundeswehr Missions Abroad on 11 September 2014, Commission Printed Paper 18(26)016f
- Annex 20 Prof. Johannes Varwick, Martin Luther University Halle-Wittenberg, Written Statement for the 5th Meeting of the Commission on the Review and Safeguarding of Parliamentary Rights regarding Mandates for Bundeswehr Missions Abroad, Berlin, 11 September 2014, Commission Printed Paper 18(26)016b

- Annex 21 Opening Statement at the Hearing of the Commission on the Review and Safeguarding of Parliamentary Rights regarding Mandates for Bundeswehr Missions Abroad by the Expert Witness Prof. Wolfgang Wagner, VU University Amsterdam, Commission Printed Paper 18(26)016c
- Annex 22 Participants in the Discussions on the Progress of Military Integration and Anticipated Further Developments within the Framework of Security and Defence Policy at the NATO Level at the External Meeting on 21/22 January 2015 in Brussels
- Annex 23 Participants in the Discussions on the Progress of Military Integration and Anticipated Further Developments within the Framework of Security and Defence Policy at the NATO Level at the External Meeting on 21/22 January 2015 in Brussels
- Annex 24 Overview of Current Integrated and/or Multinational Capabilities and Projects for Future Multilateral Composite Capabilities, Commission Printed Paper 18(26)022
- Annex 25 Briefing Note by the Commission Secretariat on the Parliamentary Procedure Followed when Deliberating on Requests for the Approval of Deployments of Armed Forces, Commission Printed Paper 18(26)023
- Annex 26 Overview of Discussions Held by the Members of the Commission Outside Regular Meetings

Abbreviations

AGS	Alliance Ground Surveillance
AMIS	African Union Mission in Sudan
<i>BeckOK</i>	<i>Beck'scher Online Kommentar</i>
BMJV	German Federal Ministry of Justice and Consumer Protection
BMVg	German Federal Ministry of Defence
BVerfG	German Federal Constitutional Court
<i>BVerfGE</i>	<i>Entscheidungen des Bundesverfassungsgerichts</i>
BVerwG	German Federal Administrative Court
<i>BVerwGE</i>	<i>Entscheidungen des Bundesverwaltungsgerichts</i>
cf.	compare with
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
DPKO	Department of Peacekeeping Operations
EATC	European Air Transport Command
ed./eds.	editor/editors
EEAS	European External Action Service
<i>et al.</i>	and others
EU	European Union
EUTM	European Union Training Mission
EUZBBG	Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union
f./ff.	following page/pages
GG	German Basic Law
<i>HJIL</i>	<i>Heidelberg Journal of International Law</i>
ISAF	International Security Assistance Force
KFOR	Kosovo Force
KSK	German Special Forces Command
MdB	Member of the German Bundestag
MINUSMA	United Nations Multidimensional Integrated Stabilization Mission in Mali
MN JHQ Ulm	Multinational Joint Headquarters Ulm
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of Congo
NATO	North Atlantic Treaty Organization
<i>OJ</i>	<i>Official Journal of the European Union</i>
OSCE	Organization for Security and Co-operation in Europe

para./paras.	paragraph/paragraphs
ParlBG	Act governing Parliamentary Participation in Decisions on the Deployment of Armed Forces Abroad (Parliamentary Participation Act)
RECCE	reconnaissance
SFOR	Stabilisation Force
SWP	German Institute for International and Security Affairs
TEU	Treaty on European Union
UN	United Nations
UNMIL	United Nations Mission in Liberia
UNMIS	United Nations Mission in Sudan
ZIF	Center for International Peace Operations