

**Annex to the
4th biannual report
of COSAC:
National Parliaments'
replies to the questionnaire**



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Responses to the Questionnaire
**for the 4th COSAC biannual report on developments in EU
procedures and practices relevant to parliamentary scrutiny**

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Austria

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
☒ Yes
☐ No
(If the answer is 'no', please go to Section II on Impact Assessments)
- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

The standard procures are applied.

- 3) Does your parliament scrutinise proposals from the Council for the following -
- a) Joint Actions?
☒ Yes
☐ No
 - b) Common Positions?
☒ Yes
☐ No
 - c) recommendations for Common Strategies?
☒ Yes
☐ No
- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?
☒ Yes
☐ No
- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?
For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

As for all EU-projects the procedure is the same according to Art. 23f of the Austrian Federal Constitution. An "EU-project" is understood in a rather wide sense and government is obliged to inform parliament on all EU-issues.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

☒ Yes

☐ No

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

The Hauptausschuss (Main Committee) of the Nationalrat is the only committee of the Austrian Parliament which is entitled to authorize the delegation of peace keeping forces in the framework of international organizations like the UN, OSCE and explizitely the ESDP.

It authorized

- Proxima on Nov. 3 and March 17, 2004 and on Dec. 9, 2003
- EUPM on Sept. 22, 2004 and Sept. 17, 2002
- EUJUST Lex on June 10, 2005

Austria does not participate in other civilian ESDP operations.

8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

a) within very short time periods?

☒ Yes

☐ No

b) during parliamentary recesses?

☒ Yes

☐ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

In case of operations on humanitarian aid of catastrophies government may decide without authorization of parliament to send personnel abroad but the Hauptausschuss may raise an objection within 2 weeks (then the operation has to be stopped).

In addition the Hauptausschuss is one of a few committees of the Nationalrat that may hold sessions also during the general parliamentary recess.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

☒ Yes

☐ No

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

☐ Yes

☒ No

This has only implications on whether the debate has to be considered confidential.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

As mentioned in the answer to question 5 also a political agreement can already be understood as an "EU-project".

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ No

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

It can be very useful in the future, when really every proposal mentioned in the work programme will contain an impact assessment, up to now it is quite difficult to find it. It is not transparent, why some proposals contain impact assessments, some not.

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☒ Yes

☐ No

- 4) If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government,

an Impact Assessment produced by your Government, some combination of these documents, or by other means?

We had our first official subsidiarity scrutinising procedure during the subsidiarity test recommended by COSAC this April. Our deputies tried to do the scrutinising on the basis of the Commission's Explanatory Memorandum, but they did not succeed, because there were only a few standard phrases.

- 5) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

As early as possible.

- 6) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

There should be impact assessments in case of major amendments, if possible done by the author of the amendment.

- 7) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

An evaluation would be useful for legal acts with major impact on a big amount of people or interest groups. It should be done after 2-5 years by the competent executive organ (like in Austria: here several laws oblige government to evaluate the legal act and to report about it to parliament).

- 8) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

Up to now not.

Belgium - House of Representatives

I. Contrôle parlementaire de la de la Politique étrangère et de Sécurité Commune (PESC) et de la Politique Européenne de Sécurité et de Défense (PESD) par les parlements nationaux:

- 1) Votre parlement soumet-il la PESC et/ou la PESD à un contrôle parlementaire?

☐ Oui

☒ ~~Non~~

- 2) Est-ce que le système de contrôle parlementaire utilisé pour les affaires européennes en général (comme décrit au premier chapitre du 3e rapport bisannuel de la COSAC) est le même que pour le contrôle parlementaire des projets de la PESC/PESD? Si tel n'est pas le cas, veuillez indiquer quelles sont les différences et comment votre parlement contrôle le domaine de la PESC/PESD? (i.e. quelles sont les commissions impliquées et quel est leur rôle respectif?)

*Selon l'article 167 de la Constitution belge, c'est le Roi (c.-à-d. le pouvoir exécutif) qui dirige les relations internationales, commande les forces armées et conclut les traités. C'est dans ce cadre-là que le contrôle parlementaire sur la participation du gouvernement belge à la PESC et la PESD se fait. Ce contrôle parlementaire a de multiples formes. Les commissions compétentes de la **Chambre des représentants** et du Sénat (notamment la Commission des Relations extérieures et de la Défense et la Commission du suivi des missions à l'étranger spécifique au Sénat) constituent le lieu classique d'information et de débat entre le Gouvernement et le Parlement sur les affaires étrangères, la défense et la participation de la Belgique à des missions à l'étranger.*

Les autres formes de contrôle parlementaire restent bien sur d'application (questions orales, questions écrites et demandes d'explication des membres).

Il est à noter que le gouvernement doit rendre des comptes (responsabilité politique) en matière de politique de défense et de sécurité devant la Chambre des représentants.

A la Chambre des représentants, la forme de contrôle la plus sévère est l'interpellation. Il s'agit de l'interrogation circonstanciée d'un ministre, en séance publique, par un député. Le débat est suivi d'un vote de confiance en séance plénière

Enfin, la tâche du Comité d'avis fédéral chargé des questions européennes est de coordonner et stimuler ce contrôle (voir le troisième rapport bisannuel de la COSAC), via, par exemple, des rapports d'initiative et des résolutions. Au sein du Comité d'avis à la Chambre, les membres du Parlement européen, élus en Belgique, peuvent également poser des questions au gouvernement

- 3) Quelles propositions du Conseil européen votre parlement soumet-il au contrôle parlementaire?

- a) les actions communes?
- ☐ Oui
- ☒ ~~Non~~
- b) les positions communes?
- ☐ Oui
- ☒ ~~Non~~
- c) les stratégies communes?
- ☐ Oui
- ☒ ~~Non~~
- 4) Votre parlement soumet-il des propositions pour la PESC et la PESD autres que celles mentionnées dans la question 3 (i.e. conclusions et décisions du Conseil européen) au contrôle parlementaire?
- ☐ Oui
- ☒ ~~Non~~

- 5) Si la réponse à la question 4 est 'oui', comment votre parlement décide-t-il quelles propositions il examinera?

*C'est la responsabilité de chaque commission compétente de décider de façon autonome quelles propositions seront examinées et par quel moyen. Il revient également à chaque membre individuellement de décider de l'opportunité d'exercer son droit de contrôle parlementaire et de l'instrument approprié pour le faire. Pour ce qui est des conclusions et décisions du Conseil européen, le Premier ministre participe à un échange de vues avec les membres du Comité d'avis fédéral chargé des questions européennes (les membres d'autres commissions compétentes y sont également invités), avant et après chaque réunion du Conseil européen. **A la Chambre des représentants, les commissions doivent également mettre, une fois par mois, à leur ordre du jour, les propositions législatives ou les initiatives politiques européennes. Le ministre compétent est censé commenter ces initiatives.***

Est-ce que c'est votre gouvernement qui décide quelles propositions (ceux non mentionnés sous point 3) sont soumises au parlement pour contrôle? Est-ce qu'il existe un accord avec votre gouvernement sur la question quelles propositions non législatives doivent être soumises au contrôle parlementaire? (Si oui, veuillez indiquer quand cet accord a été conclu et quel type de propositions il comprend.)

Non, le Parlement peut exercer son contrôle de façon pleinement autonome, indépendamment du gouvernement ou d'une autre instance.

Opérations civiles de la PESD:

Contexte: Les opérations civiles de la PESD constituent un domaine d'activités de l'UE en plein essor. Les six opérations civiles actuelles sont:

- *Mission de police de l'UE dans l'ancienne République Yougoslave de Macédoine (Proxima)*
- [Mission "État de droit" menée par l'Union européenne en Géorgie \(Eujust Themis\)](#)
- [Mission de police de l'Union européenne en Bosnie-et-Herzégovine \(MPUE\)](#)

- [Mission de police de l'Union européenne à Kinshasa \(RDC\) \(EUPOL "Kinshasa"\)](#)
- [Mission intégrée "État de droit" de l'Union européenne pour l'Iraq \(Eujust Lex\)](#)
- [Mission de l'UE en République démocratique du Congo \(EUSEC RD Congo\)](#)

6) Ces missions ont-elles été soumises au contrôle parlementaire?

☐ Oui

☒ ~~Non~~

7) Si la réponse à la question 6 est 'oui', veuillez indiquer quelles opérations votre parlement a soumis au contrôle parlementaire, et veuillez spécifier pour chaque opération à quelle étape de la procédure le contrôle parlementaire a eu lieu (i.e. après la publication d'un projet d'action commune, immédiatement avant la réunion du Conseil à laquelle cette action commune était décidée; ou après un accord au Conseil?)

Une commission spéciale « participation aux missions à l'étranger » a entendu le ministre de la Défense et a eu un échange de vues sur les missions mentionnées.

A la Chambre, le contrôle s'est fait via des questions parlementaires .

8) Votre parlement a-t-il prévu des dispositions spécifiques pour soumettre des opérations civiles de la PESD à un contrôle parlementaire:

a) pour agir en une période de temps très courte?

☐ Oui

☒ ~~Non~~

b) pendant l'intersession?

☐ Oui

☒ ~~Non~~

Si vous avez répondu par 'oui' à l'une des questions, veuillez spécifier quelles sont ces procédures (la possibilité de réunions extraordinaires des Commissions, la possibilité d'aboutir à des accords par correspondance) et à combien de reprises elles ont été utilisées en pratique?

Au Sénat, la possibilité d'avoir une réunion extraordinaire de la commission « participation aux missions à l'étranger » ou de la commission des Relations extérieures et de la Défense, existe.

A la Chambre des représentants, il n'y pas de procédure spécifique.

9) Est-ce que les procédures du Conseil concernant les opérations civiles PESD laissent un temps adéquat à l'exécution du contrôle parlementaire?

☐ Oui

☒ ~~Non~~

- 10) La classification des documents du Conseil comme 'restreint' ou comme 'confidentiel' constitue-t-elle une entrave à l'exécution du contrôle parlementaire des opérations ESDP?

☒ Oui
☐ Non

Accord politique:

Contexte: Le Conseil des Ministres aboutit souvent à des 'accords politiques' sur la PESD et la PESC avant la finalisation de l'instrument, c'est-à-dire que certains détails sont approuvés lors de réunions ultérieures, voire même après la fin du contrôle parlementaire.

- 11) Est-ce que votre parlement a rencontré ce problème? Dans ce cas, quelles procédures ou pratiques utilise votre parlement pour s'occuper de ce problème?

Non.

II. Contrôle des analyses d'impact de la Commission:

- 1) Est-ce que votre parlement soumet les analyses d'impact au contrôle parlementaire?

☐ Oui
☒ Non

(Si la réponse est 'non', veuillez passer à la question 4)

- 2) Est-ce que votre parlement soumet les analyses d'impact au contrôle parlementaire en utilisant la procédure de contrôle parlementaire normale (comme décrite au premier chapitre du 3e rapport bisannuel de la COSAC)? Si tel n'est pas le cas, veuillez indiquer quelles sont les différences et comment votre parlement procède?

La procédure de contrôle parlementaire normale est d'application.

- 3) Est-ce que votre parlement utilise des ressources spéciales pour le contrôle parlementaire des analyses d'impact? Si oui, veuillez indiquer lesquelles. (i.e. Est-ce que le contrôle nécessite-t-il des fonds spéciaux? Est-ce que des services autres que la commission des affaires européennes sont impliqués? Utilisez-vous des expertises externes?)

Non.

- 4) Quelle est l'opinion de votre parlement sur les analyses d'impact produites par la Commission? Ces analyses sont-elles utiles au contrôle parlementaire? Sont-elles adéquates? Si tel n'est pas le cas, quelles sont vos suggestions pour les améliorer? (Quelles informations supplémentaires souhaiteriez-vous y trouver? Sur quelles informations les analyses devraient-elles se concentrer davantage)

Les analyses d'impact sont essentielles pour mener une politique cohérente.

Les analyses d'impact sont également essentielles dans le cadre du contrôle parlementaire : elles donnent d'ailleurs une réponse au principe de proportionnalité qui constitue, en fait, la base qui permet de juger de la subsidiarité.

Le grand problème est que les parlements nationaux n'ont pas la capacité institutionnelle d'assimiler ces données et de les intégrer dans leur propre système de décision.

- 5) Votre parlement contrôle-t-il si les projets d'actes législatifs respectent les principes de subsidiarité et de proportionnalité?

☒ Oui

☐ Non

- 6) Selon vous, quand est-ce que la Commission devrait entreprendre une analyse d'impact. (i.e. Avant le premier projet d'un acte législatif? Avant l'accord du Collège des Commissaires? Est-ce que l'analyse de l'impact de la législation devrait être un processus continu?)

L'analyse de l'impact devrait être un processus continu.

- 7) Les analyses d'impact devraient-elles être révisées au regard des amendements au projet d'acte législatif de la Commission, afin de mieux refléter les projets amendés? Si oui, quand et par qui ces révisions devraient-elle être faites? Est-ce que le Parlement européen et le Conseil devraient produire des analyses d'impact de leurs amendements?

Etant donné que nous estimons que l'analyse de l'impact devrait être un processus continu, nous sommes d'avis que ces analyses devraient être révisées par la Commission dès qu'un amendement le rend nécessaire (en fonction de la nature de l'amendement). Le choix de donner la Commission cette responsabilité est inspiré par un souci de cohérence concernant la méthode d'analyse.

- 8) La législation européenne devrait-elle être contrôlée après son implémentation pour analyser son impact, et si oui, quand et par qui?

*Oui, par les autorités compétentes au niveau européen (Commission) et national (gouvernements nationaux), après une période qui doit être suffisante pour pouvoir effectuer un contrôle correct. **L'évaluation ex post devrait également être une tâche qui incombe aux parlements nationaux (étant donné que 80 % du Budget de l'UE sont dépensés par les gouvernements nationaux).***

- 9) D'aucuns argumentent en faveur de la création d'un organisme consultatif indépendant afin de conseiller les institutions européennes pour réduire la charge administrative de la législation sur les entreprises et les citoyens (comme par exemple l'Actal aux Pays-Bas et la Task force «Mieux légiférer» en Grande-Bretagne). Cet organe pourrait reprendre la tâche de la Commission de produire des

analyses d'impact. Quelle est l'opinion de votre parlement face à cette proposition?

Une analyse d'impact (ex ante et ex post) est beaucoup plus large que la simplification ou la réduction de la législation.

III. Propositions concernant les sujets à traiter par la COSAC en 2006

L'article 7.1 du règlement interne de la COSAC stipule qu'«avant la dernière réunion ordinaire de chaque année, les délégations indiquent les sujets qu'elles proposent d'examiner l'année suivante.» L'article affirme également que la dernière COSAC de l'année devrait discuter cette question. L'article 7.1 A ajoute que «L'objet principal de chaque projet d'ordre du jour est lié au rôle de la COSAC comme organe d'échange d'informations, en particulier pour les aspects pratiques de l'examen parlementaire.» Conformément à ces deux articles, il y aura une discussion des sur la question de quels sujets la COSAC devrait s'occuper pendant l'année suivante à la fin de la réunion d'octobre à Londres.

Afin d'alimenter cette discussion, veuillez indiquer les sujets que votre parlement propose comme thèmes pour la COSAC en 2006:

Comment les parlements nationaux ont-ils été associés à l'élaboration des plans d'action nationaux dans le cadre de la stratégie de Lisbonne ?

Comment les parlements nationaux ont-ils participé au large débat mobilisateur national sur la construction européenne (cfr. la déclaration du Conseil européen sur la ratification du traité constitutionnel du 18 juin 2005) ?

Belgium - Senate

I. Contrôle parlementaire de la de la Politique étrangère et de Sécurité Commune (PESC) et de la Politique Européenne de Sécurité et de Défense (PESD) par les parlements nationaux:

- 1) Votre parlement soumet-il la PESC et/ou la PESD à un contrôle parlementaire?

☐ Oui
☒ ~~Non~~

- 2) Est-ce que le système de contrôle parlementaire utilisé pour les affaires européennes en général (comme décrit au premier chapitre du 3e rapport bisannuel de la COSAC) est le même que pour le contrôle parlementaire des projets de la PESC/PESD? Si tel n'est pas le cas, veuillez indiquer quelles sont les différences et comment votre parlement contrôle le domaine de la PESC/PESD? (i.e. quelles sont les commissions impliquées et quel est leur rôle respectif?)

Selon l'article 167 de la Constitution belge, c'est le Roi (c.-à-d. le pouvoir exécutif) qui dirige les relations internationales, commande les forces armées et conclut les traités. C'est dans ce cadre-là que le contrôle parlementaire sur la participation du gouvernement belge à la PESC et la PESD se fait. Ce contrôle parlementaire a de multiples formes. Les commissions compétentes du Sénat (notamment la Commission des Relations extérieures et de la Défense et la Commission du suivi des missions à l'étranger) constituent le lieu classique d'information et de débat entre le Gouvernement et le Sénat sur les affaires étrangères, la défense et la participation de la Belgique à des missions à l'étranger. Les autres formes de contrôle parlementaire restent bien sur d'application (questions orales, questions écrites et demandes d'explication des membres). Enfin, la tâche du Comité d'avis fédéral chargé des questions européennes est de coordonner et stimuler ce contrôle (voir le troisième rapport bisannuel de la COSAC).

- 3) Quelles propositions du Conseil européen votre parlement soumet-il au contrôle parlementaire?

- a) les actions communes?

☐ Oui
☒ ~~Non~~

- b) les positions communes?

☐ Oui
☒ ~~Non~~

- c) les stratégies communes?

☐ Oui
☒ ~~Non~~

- 4) Votre parlement soumet-il des propositions pour la PESC et la PESD autres que celles mentionnées dans la question 3 (i.e. conclusions et décisions du Conseil européen) au contrôle parlementaire?

☐ Oui

~~e~~ — Non

- 5) Si la réponse à la question 4 est 'oui', comment votre parlement décide-t-il quelles propositions il examinera?

C'est la responsabilité de chaque commission compétente de décider de façon autonome quelles propositions seront examinées et par quel moyen. Il revient également à chaque membre individuellement de décider de l'opportunité d'exercer son droit de contrôle parlementaire et de l'instrument approprié pour le faire. Pour ce qui est des conclusions et décisions du Conseil européen, le Premier ministre participe à un échange de vues avec les membres du Comité d'avis fédéral chargé des questions européennes (les membres d'autres commissions compétentes y sont également invités), avant et après chaque réunion du Conseil européen.

Est-ce que c'est votre gouvernement qui décide quelles propositions (ceux non mentionnés sous point 3) sont soumises au parlement pour contrôle? Est-ce qu'il existe un accord avec votre gouvernement sur la question quelles propositions non législatives doivent être soumises au contrôle parlementaire? (Si oui, veuillez indiquer quand cet accord a été conclu et quel type de propositions il comprend.)

Non.

Opérations civiles de la PESD :

Contexte: Les opérations civiles de la PESD constituent un domaine d'activités de l'UE en plein essor. Les six opérations civiles actuelles sont:

- Mission de police de l'UE dans l'ancienne République Yougoslave de Macédoine (Proxima)
- [Mission "État de droit" menée par l'Union européenne en Géorgie \(Eujust Themis\)](#)
- [Mission de police de l'Union européenne en Bosnie-et-Herzégovine \(MPUE\)](#)
- [Mission de police de l'Union européenne à Kinshasa \(RDC\) \(EUPOL "Kinshasa"\)](#)
- [Mission intégrée "État de droit" de l'Union européenne pour l'Iraq \(Eujust Lex\)](#)
- [Mission de l'UE en République démocratique du Congo \(EUSEC RD Congo\)](#)

- 6) Ces missions ont-elles été soumises au contrôle parlementaire?

☐ Oui

~~e~~ — Non

- 7) Si la réponse à la question 6 est 'oui', veuillez indiquer quelles opérations votre parlement a soumis au contrôle parlementaire, et veuillez spécifier pour chaque opération à quelle étape de la procédure le contrôle parlementaire a eu lieu (i.e. après la publication d'un projet d'action commune, immédiatement avant la réunion du Conseil à laquelle cette action commune était décidée; ou après un accord au Conseil?)

Une commission spéciale « Commission du suivi des missions à l'étranger » a entendu le ministre de la Défense et a eu un échange de vues sur les missions mentionnées.

8) Votre parlement a-t-il prévu des dispositions spécifiques pour soumettre des opérations civiles de la PESD à un contrôle parlementaire:

a) pour agir en une période de temps très courte?

☐ Oui

☒ ~~Non~~

b) pendant l'intersession?

☐ Oui

☒ ~~Non~~

Si vous avez répondu par 'oui' à l'une des questions, veuillez spécifier quelles sont ces procédures (la possibilité de réunions extraordinaires des Commissions, la possibilité d'aboutir à des accords par correspondance) et à combien de reprises elles ont été utilisées en pratique?

La possibilité d'avoir une réunion extraordinaire de la Commission du suivi des missions à l'étranger ou de la Commission des Relations extérieures et de la Défense, existe.

9) Est-ce que les procédures du Conseil concernant les opérations civiles PESD laissent un temps adéquat à l'exécution du contrôle parlementaire?

☐ Oui

☒ ~~Non~~

10) La classification des documents du Conseil comme 'restreint' ou comme 'confidentiel' constitue-t-elle une entrave à l'exécution du contrôle parlementaire des opérations ESDP?

☒ ~~Oui~~

☐ Non. Il faut toutefois noter que ces documents ne sont pas rendus publics à l'occasion de l'examen parlementaire ; la commission spéciale « missions à l'étranger » respecte elle aussi leur nature confidentielle.

Accord politique:

Contexte: Le Conseil des Ministres aboutit souvent à des 'accords politiques' sur la PESD et la PESG avant la finalisation de l'instrument, c'est-à-dire que certains détails sont approuvés lors de réunions ultérieures, voire même après la fin du contrôle parlementaire.

11) Est-ce que votre parlement a rencontré ce problème? Dans ce cas, quelles procédures ou pratiques utilise votre parlement pour s'occuper de ce problème?

Non.

II. Contrôle des analyses d'impact de la Commission:

1) Est-ce que votre parlement soumet les analyses d'impact au contrôle parlementaire?

☒ ~~Oui~~

☐ Non

- 2) Quelle est l'opinion de votre parlement sur les analyses d'impact produites par la Commission ? Ces analyses sont-elles utiles au contrôle parlementaire ? Sont-elles adéquates ? Si tel n'est pas le cas, quelles sont vos suggestions pour les améliorer ? (Quelles informations supplémentaires souhaiteriez-vous y trouver ? Sur quelles informations les analyses devraient-elles se concentrer davantage)

- 3) Votre parlement contrôle-t-il si les projets d'actes législatifs respectent les principes de subsidiarité et de proportionnalité?

☒ Oui

☐ Non

- 4) Selon vous, quand est-ce que la Commission devrait entreprendre une analyse d'impact. (i.e. Avant le premier projet d'un acte législatif? Avant l'accord du Collège des Commissaires? Est-ce que l'analyse de l'impact de la législation devrait être un processus continu?)

L'analyse de l'impact devrait être un processus continu.

- 5) Les analyses d'impact devraient-elles être révisées au regard des amendements au projet d'acte législatif de la Commission, afin de mieux refléter les projets amendés? Si oui, quand et par qui ces révisions devraient-elle être faites? Est-ce que le Parlement européen et le Conseil devraient produire des analyses d'impact de leurs amendements?

Etant donné que nous estimons que l'analyse de l'impact devrait être un processus continu, nous sommes d'avis que ces analyses devraient être révisées par la Commission dès qu'une modification du projet d'acte législatif le rend nécessaire (en fonction de la nature de l'amendement). Le choix de donner la Commission cette responsabilité est inspiré par un souci de cohérence concernant la méthode d'analyse.

- 6) La législation européenne devrait-elle être contrôlée après son implémentation pour analyser son impact, et si oui, quand et par qui?

Oui, par les autorités compétentes au niveau européen (Commission et Parlement européen) et national (gouvernements et parlements nationaux), après une période qui doit être suffisante pour pouvoir effectuer un contrôle correct de l'impact d'une norme européenne (tant législative que réglementaire).

- 7) D'aucuns argumentent en faveur de la création d'un organisme consultatif indépendant afin de conseiller les institutions européennes pour réduire la charge administrative de la législation sur les entreprises et les citoyens (comme par exemple l'Actal aux Pays-Bas et la Task force «Mieux légiférer» en Grande-Bretagne). Cet organe pourrait reprendre la tâche de la Commission de produire des analyses d'impact. Quelle est l'opinion de votre parlement face à cette proposition?

L'idée de confier cette tâche à un organisme indépendant est intéressante. Reste à savoir comment cet organisme serait composé et comment il arriverait à un avis. L'idéal serait qu'un avis soit unanime. Sinon, toutes les opinions - tant majoritaire que minoritaire - devraient pouvoir être exprimées.

III. Propositions concernant les sujets à traiter par la COSAC en 2006

L'article 7.1 du règlement interne de la COSAC stipule qu'«avant la dernière réunion ordinaire de chaque année, les délégations indiquent les sujets qu'elles proposent d'examiner l'année suivante.» L'article affirme également que la dernière COSAC de l'année devrait discuter cette question. L'article 7.1 A ajoute que «L'objet principal de chaque projet d'ordre du jour est lié au rôle de la COSAC comme organe d'échange d'informations, en particulier pour les aspects pratiques de l'examen parlementaire.» Conformément à ces deux articles, il y aura une discussion des sur la questions de quels sujets la COSAC devrait s'occuper pendant l'année suivante à la fin de la réunion d'octobre à Londres.

Afin d'alimenter cette discussion, veuillez indiquer les sujets que votre parlement propose comme thèmes pour la COSAC en 2006:

Comment les parlements nationaux ont-ils été associés à l'élaboration des plans d'action nationaux dans le cadre de la stratégie de Lisbonne ?

Comment les parlements nationaux ont-ils participé au large débat mobilisateur national sur la construction européenne (cfr. la déclaration du Conseil européen sur la ratification du traité constitutionnel du 18 juin 2005) ?

Cyprus

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

The scrutiny procedures in the House of Representatives are gradually being set in place, though their scope and precise nature are still under consideration.

The House does not presently scrutinise CFSP and ESDP matters as such and hence pertinent proposals from the Council in such fields as Joint Actions, Common Positions or recommendations for Common Strategies.

However, the competent committees of the House, such as the Standing Committee on Foreign Affairs and the Standing Committee on Defence can, within the sphere of exercise of parliamentary control, invite Ministers and other officials to appear before them and provide information on issues pertaining to CFSP and ESDP.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

✓ Yes

- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

Yes, as part of the scrutiny system that is adopted, which, however, is not fully developed yet.

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

No.

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your

parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

They are adequate.

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?
- ☐ Yes
 - ☒ No
-

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Before the drafting of a legislative proposal and whenever such proposal has been substantially amended/revised.

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

See above.

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

This issue has not been discussed in the Cyprus Parliament.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

No.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

Justice and Home Affairs (particularly terrorism).

Czech Republic - Senate

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
- ☒ Yes
 - ☐ No
- (If the answer is 'no', please go to Section II on Impact Assessments)
- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Based on the Rules of Procedure “the Senate shall determine which Committee or Committees will be responsible for considering proposals of legislative acts and binding measures of European Union bodies...” the Senate decided by resolution that Committee on EU Affairs will scrutinise I. pillar documents, Committee on Foreign Affairs, Defence and Security II. and III. pillar documents.

- 3) Does your parliament scrutinise proposals from the Council for the following -
- a) Joint Actions?
 - ☒ Yes
 - ☐ No
 - b) Common Positions?
 - ☒ Yes
 - ☐ No
 - c) recommendations for Common Strategies?
 - ☒ Yes
 - ☐ No

All these types of proposals are included in a weekly overview of documents, which are transmitted to the Senate in the given period. The committees choose documents for scrutiny from these weekly overviews.

Scrutinising of CFSP or ESDP matters has been so far quite rare in practice - primarily because of short terms in which the proposals are agreed, which does not leave sufficient time for scrutiny.

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?
- ☐ Yes
 - ☒ No

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?

- ☒ **Yes**
☐ No

- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

That was EU Police Mission in Bosnia-Herzegovina (EUPM) following a draft Joint Action being issued.

- 8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

a) within very short time periods?

- ☐ Yes
☒ **No**

b) during parliamentary recesses?

- ☐ Yes
☒ **No**

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

- ☐ Yes
☒ **No**

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?
- ☐ Yes
 - ☒ **No**

However, the classification makes access for Senators who want to consult a given document difficult because the “restricted - limité” documents are accessible from a database operated by the government only with a password. The “confidential” documents will be probably in practice virtually inaccessible because the government has opted for an extremely securised system of transmission, which is now being tested and will become operational at the end of 2005. We will therefore be able to answer this question fully only later this year

Political Agreement:

Background: The Council of Ministers often reaches ‘political agreement’ on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

We have never encountered this problem yet. However, we do admit this may be a problem in the future.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- ☐ Yes
 - ☒ **No**
- (If the answer is ‘no’, please go to question 4.)*

However impact assessments are studied by experts and information drawn there from is used for drafting of background documents for Senate scrutiny.

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

Since the Senate has never specifically discussed the issue of impact assessments, there is no official view on that. Therefore the answers given in this questionnaire reflect the views of officials in the Senate responsible for EU scrutiny.

Impact assessments are naturally included in the documentation used in the scrutiny process, though they do not undergo any special procedure.

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☒ **Yes**

☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

All mentioned documents are taken into account, but independent opinion reflecting the parliamentary perspective (i.e. emphasis on effectiveness of Union action with observance of precise division of competences between EU and national level and view of long-term perspective in the Senate case) should be drawn by the expert background of the chamber as such.

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Preliminary impact assessment should be undertaken before the Commission drafts an act, but the issue should be proved in following stages as well.

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Impact assessments should be revised every time a significant change is proposed, no matter by which body.

As to who should conduct these revisions, a specialized body proposed in question no.9 could be a viable option.

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

Yes. By the Commission or a specialized body if such is created.

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

Such idea is worth detailed consideration based on the experience of the countries mentioned.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

No official statement of the Czech Senate concerning the COSAC agenda in 2006 has been passed. On the other hand, there are topics which seem to be useful to discuss at this level: e.g. subsidiarity check, financial perspective, Lisbon strategy.

Czech Republic - Chamber of Deputies

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

x Yes

- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

The Chamber of Deputies of the Parliament of the Czech Republic considers the field of CFSP/ESDP as an open political process, different from first pillar activities. Accordingly, the procedures for scrutiny differ. The CFSP/ESDP affairs are not a subject to scrutiny on a "proposal-by-proposal" basis, but on a matter-of-fact basis. The parliament and its specialised bodies (Committee for European Affairs, Committee for Foreign Affairs) constantly monitor all CFSP/ESDP related activities in EU Council bodies (COPS, CIVCOM, specialised working groups). Then, selected items are discussed in the specialised committee in the presence of the government.

In the field of CFSP/ESDP the Chamber especially focuses on the implementation of the European Security Strategy and relations of the EU with third parties. The enlargement process is subject to the same scrutiny procedure as the CFSP/ESDP affairs.

- 3) Does your parliament scrutinise proposals from the Council for the following -

- a) Joint Actions?

x Yes

- b) Common Positions?

x Yes

- c) recommendations for Common Strategies?

x Yes

All EU Council activities, including the Joint Actions, Common Positions and recommendations for Common Strategies proposals, are constantly monitored. If the parliament or its specialised body so decides, the EU Council proposal becomes a subject to scrutiny in the presence of the government.

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

x No

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?

x No

The Chamber constantly monitors all activities in the field of Civilian ESDP operations.

- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).
-

- 8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

- a) within very short time periods?

x No

- b) during parliamentary recesses?

x No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

x No

The procedures of the EU Council on civilian ESDP operations do not allow the Parliament to have an effective discussion on each single matter. For that reason, the Chamber constantly monitors all activities in the field of civilian ESDP operations. When the Chamber considers it necessary, it questions a relevant member of the government on the selected matter.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

x Yes

Good accessibility of documents is a primary condition for each effective discussion, especially in the area of CFSP/ESDP. Present system of classification prevents Members of Parliament from immediate access to relevant EU Council documents.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

As already described above, the Czech Chamber of Deputies constantly monitors all activities (both legislative and political) in the EU Council and its bodies and is always ready to discuss the selected matter. Therefore the "political agreement" in the field of CFSP/ESDP constitutes no problem for the Czech Chamber of Deputies.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

x Yes

(If the answer is 'no', please go to question 4.)

- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

Commission impact assessments are in general scrutinised within the framework of impact assessment of the draft act by the Committee for European Affairs of the Chamber of Deputies of the Parliament of the Czech Republic. It is an obligatory part of the Committee position on the draft act.

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

No. Impact assessments are scrutinised by an expert department of the Chamber – the Parliamentary Institute, which in some cases co-operates with the executive branch of the government and rarely uses expertises elaborated outside the Parliament.

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

Commission impact assessments should comprise an assessment of the implications for the rules to be put in place by Member States. Draft European legislative acts should take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved (as proposed in the Protocol on the application of the principle of subsidiarity and proportionality annexed to the Treaty Establishing the Constitution for Europe).

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

x Yes

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

The principle of subsidiarity is scrutinised on the basis of all the above mentioned documents (i. e. Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by the Czech Government, an Impact Assessment produced by the Czech Government) and on the basis of an expert opinion produced by the expert body of the Chamber – the Parliamentary Institute.

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

The Commission should undertake an impact assessment before it drafts any legislative proposal!

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Yes, in the case the amendments are of a substantial character.

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

Yes, an impact assessment should be an ongoing process within the aim to simplify EU legislation as one of the main goals of the new Lisbon Strategy.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative

burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

An impact assessment should be done at both – EU and national levels. In case any body will be established, national legal experts should be involved in its work. The better solution is to create a network of legal and other experts at the EU and national levels to assist responsible DGs.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

Derogations in the principle of the free movement of workers for the "new Member States".

Denmark

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

1) Does your parliament scrutinise CFSP and/or ESDP matters?

☒ Yes

☐ No

2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Reply:

1) In general **The European Affairs Committee** of the Danish Parliament scrutinise CFSP/ESDP policy proposals according to the standard procedure. However - when it comes to issues related to CFSP/ESDP the Government is obliged only to **inform** the Committee. All Council meetings (GAERC) are presented in the EAC. But the Government is not obliged to present a negotiation proposal ahead of decision-making in the Council as is the case for issues belonging to pillar I (EC) or pillar III (JHA).

2) Also the **Foreign Policy Committee** discusses EU matters on a current basis. The Government has to consult the Foreign Policy Committee on matters related to CFSP/ESDP as early as possible and on a current basis. This is in accordance with the Danish Constitution in which it is written, that the Government shall consult the For. Pol. Com. prior to making any decision of major importance to foreign policy.

3) Does your parliament scrutinise proposals from the Council for the following -

a) Joint Actions?

☒ Yes

b) Common Positions?

☒ Yes

c) recommendations for Common Strategies?

☒ Yes

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

☒ Yes

☐ No

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

Reply:

Prior to meetings in the Council (GAERC) the Government shall brief the the European Affairs Committee on **questions of major importance**. Even though the Government is not obliged to present all the issues on the Agenda, the members of the European Affairs Committee can ask questions related to any issue on the Agenda, including joint actions, common positions, common strategies, Council conclusions and decisions etc.

Before every meeting in the European Affairs Committee, the Committee is being provided with topic notes on all issues on the Council's Agenda from the Government according to the standard procedure.

In addition it should be mentioned, that The European Affairs Committee in April 2005 has **published a comprehensive report describing the development of the CFSP** from a historic and a political/legal viewpoint. The publication also describes all the ESDP-operations, EU's common strategies and some of the important common positions and joint actions. (Note: The Report is public and can be ordered at the EU-Information Centre in the Danish Parliament (in Danish only))

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

- ☒ Yes
 - ☐ No
-

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

Reply:

All the operations have been presented by the Government in topic notes and orally in the European Affairs Committee the week before the Council meeting at which the Joint Action has been put on the agenda. Members of the Committee have asked a number of questions to the Minister of Foreign Affairs.

All the ESDP-operations have been described in the recently published publication about the development of the CFSP (see question no. 5).

Note that Denmark cannot take part in the military operations due to the Danish opt-out on EU-cooperation with defence implications.

8) Does your parliament have arrangements for scrutinising civilian EDSP missions -

a) within very short time periods?

- ☒ Yes

A reference can be made to answer of question no. 7.

Occasionally the European Affairs Committee organises conferences or public hearings on relevant EU-issues including issues related to the Common Foreign and Security Policy.

b) during parliamentary recesses?

- ☒ Yes

Reply:

The Danish opt-out on EU-cooperation with defence implications has been debated in plenary.

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?
- ☐ Yes
 - ☐ No

Reply:

In general the Committee find it very important to get all kinds of relevant information on EU-issues as soon as possible, thereby making the Committee able to handle the relevant issues properly. Now and then the Committee receives information at a rather late stage in the process, but this happens within all policy areas, and does not count for CFSP/ESDP issues in particular.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?
- ☒ No

Reply:

The EU-Secretariat has not registered any comments on this issue among members of the European Affairs Committee.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

Reply:

A reference can be made to answers of questions no. 7 and no. 9.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- ☐ Yes
 - ☒ No
- (If the answer is 'no', please go to question 4.)

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

The Commissions impacts assessments – while not scrutinized formally by the committee, are used by parliamentary staff members.

The organisation and presentation of the impact assessments should be improved, in order to ensure their accessibility. To this end, it is suggested that the European Commission creates a public database including all proposals in the annual legislative and work program – with links to their specific impact assessments as well as any other relevant information. Such a system of linking the various impact assessments with the Commissions annual legislative and work programme will allow the national parliaments the ability to begin a subsidiarity check an early stage.

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☒ Yes
☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

As part of the general scrutiny performed on all legislative proposals – and in particular on proposals of “greater importance” – as defined by the Danish Government - the European Affairs Committee examines whether or not a given proposal meets the criteria for subsidiarity and proportionality. To this end, the Committee uses explanatory notes from the government – called basic memoranda (which must include the Governments assessment on subsidiarity). Since January 2005 – the Danish Government is also obliged to send specific “subsidiarity notes” to the committee on all legislative of a greater importance no later then 14 days after the proposals adoption in the Commission.

Committee members are also given access to all relevant documents from EU institutions concerning work in progress, as well as explanatory memorandums from the British House of Commons and the Swedish Riksdag.

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

To be useful with regards to the early scrutiny of legislative proposals, Impact assessments should be undertaken before a legislative proposal is placed on the annual legislative work program. This will

give the national parliaments the ability to begin the process of a pre-scrutiny at an early stage.

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

The European Commission has the right of initiative for most legislation, and should therefore be responsible for performing impact assessments. Requiring the European Parliament and the Council to undertake impact assessments on all amendments might have an adverse affect on the legislative process – and therefore should not be made a requirement as such unless such a requirement could be undertaken without delaying the legislative process.

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

The European Commission should be required to review existing legislation in order to ensure that the EU legal framework meets basic standards for good governance and to ensure that the existing *acquis communautaire* continues to respect the principles of subsidiarity and proportionality.

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

The Danish Parliament has not published an opinion concerning this proposal.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

- After an evaluation on the state of play concerning the ratification of the Constitutional treaty, COSAC should consider what – if any – actions that might be taken in order to improve COSAC's role vis á vis subsidiarity within the existing legal framework.
- An evaluation on the co-decision procedure, with special focus on how national parliaments can benefit by an "early scrutiny" of legislative proposals might be initiated and debated. Such an evaluation should include the special challenges faced by the national parliaments when legislation is adopted after first reading as well as an analysis on how the inclusion of specialist committees in this scrutiny affects/benefits parliamentary scrutiny.
- COSAC should consider using the provisions in the Amsterdam Protocol concerning enhanced scrutiny in the area of freedom, security and Justice including convening conferences in this area.

Estonia

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

1) Does your parliament scrutinise CFSP and/or ESDP matters?

Yes

☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Riigikogu Rules of Procedure Act applies also to the scrutiny of CFSP/ESDP policy proposals.

Point 3 of § 18 of the Act states as following:

The European Union Affairs Committee and **the Foreign Affairs Committee of the Riigikogu shall, in matters which concern the common foreign and security policy of the European Union** and in co-operation with other standing committees, prepare the opinion of the Riigikogu on draft European Union legislation and shall provide an opinion concerning other affairs of the European Union and exercise supervision over the activities of the Government of the Republic in implementing European Union policies.

3) Does your parliament scrutinise proposals from the Council for the following -

a) Joint Actions?

Yes

☐ No

b) Common Positions?

Yes

☐ No

c) recommendations for Common Strategies?

Yes

☐ No

4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

Yes

☐ No

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

Riigikogu Rules of Procedure Act states as following:

§ 152¹. Submission to Riigikogu of European Union affairs

(1) In order to enable the Riigikogu to express its opinion, the Government of the Republic shall submit the following draft European Union legislation to the Riigikogu:

1) draft legislation the scope of application of which requires, pursuant to the Constitution of the Republic of Estonia, the passage, amendment or repeal of an Act or a resolution of the Riigikogu;

2) draft legislation the passage of which would bring about a significant economic or social effect.

(2) The Government of the Republic shall, on its own initiative or at the request of the European Union Affairs Committee or the Foreign Affairs Committee, also submit other European Union affairs of significance to the Riigikogu for an opinion.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?

Yes

☐ No

- 7) **If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).**

The National Defence Committee of the Riigikogu meets once of month with the Chief of the Defence Forces. The National Defence Committee and the Foreign Affairs Committee has usually a joint sitting when the international

missions, there Estonian troops (from both military and civilian structures) are participating, are discussed.

The Foreign Affairs Committee of the Riigikogu meets regularly before the GAERC meeting with the Minister of Foreign Affairs. If the agenda of the GAERC contains ESDP missions, the Committee discusses them as any other question of the GAERC agenda. The Foreign Affairs Committee also receives a written conclusion about passed GAERC meeting from the Ministry of the Foreign Affairs.

8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

a) within very short time periods?

Yes

☐ No

b) during parliamentary recesses?

Yes

☐ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

The Foreign Affairs Committee (as any other committee) has regular sittings and therefore it does not matter if the notice is very short.

The chairman of a Riigikogu committee shall convene an extraordinary sitting of the committee on his or her own initiative or at the request of at least one-third of the members of the committee.

9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

Yes

☐ No

The process of decision of the Riigikogu can be very rapid in urgent questions.

10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

☐ Yes

No

This has not happened so far in the Riigikogu. (NB: Estonia has been member of the EU only since 01.05.2004!).

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case

certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

The Foreign Affairs Committee has very good cooperation with both Ministry of Foreign Affairs and Ministry of Defence. Both Ministries inform the Committee about later agreements.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ No

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)
-

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☒ Yes

☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

As a part of normal scrutiny process on the basis of the Memo of the Government

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Before it drafts a proposal

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?
-

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?
-

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

Not yet

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

1. Experiences of free movement of labour 1,5 years after the enlargement;
2. Free movement of services in the EU

Finland

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
- ☒ Yes
☐ No
- (If the answer is 'no', please go to Section II on Impact Assessments)*
-
- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).
- In the Finnish system EU scrutiny of CFDP/ESDP belongs in to the competence of the Foreign Affairs Committee. The procedure is same than in other matters in connection with the Grand Committee.*
- 3) Does your parliament scrutinise proposals from the Council for the following -
- a) Joint Actions?
☒ Yes
☐ No
- b) Common Positions?
☒ Yes
☐ No
- c) recommendations for Common Strategies?
☒ Yes
☐ No
- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?
- ☒ Yes
☐ No
-
- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?
For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

The constitution gives the competent committee an unrestricted right to require of the government information on any business related to the EU and to issue an opinion that is politically binding on the government. The government has a corresponding right to submit to the competent parliamentary committee any matter it deems appropriate. In practice, all major policy papers are submitted by the government automatically.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

- ☒ Yes
- ☐ No

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

Foreign Affairs Committee scrutinised all of them before Council meetings where Joint Action were agreed.

8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

a) within very short time periods?

- ☒ Yes
- ☐ No

b) during parliamentary recesses?

- ☒ Yes
- ☐ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

All MPs can be reached easily by phone and e-mail. Extra committee meetings can be arranged if deemed necessary and also written procedure can also be used in some cases (especially outside normal session period).

9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

- ☒ Yes
- ☐ No

Decisions can be taken in the tight timeframe when needed.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?
- ☐ Yes
 - ☒ No

In Finnish constitutional practice, the government cannot withhold information from the Eduskunta on confidentiality grounds. The Foreign Affairs Committee as well as the Grand Committee can, according to the Constitution, declare the matter and the documents confidential when needed.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

The Government is obliged to inform the Foreign Affairs Committee on all major CFSP matters as they evolve – not depending on the legal instrument as such.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- ☒ Yes
 - ☐ No
- (If the answer is 'no', please go to question 4.)*
-

- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

Yes.

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

When scrutinising Commissions proposals for legislations Specialised Committees hear experts also on impact assessment issues.

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

In general, we consider the impact assessments adequate, but we also require impact assessments from ministries especially from the Finnish point of view.

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☒ Yes

☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

By combination of the documents above.

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Assessing the impact of legislation should be an on-going process.

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Impact assessments should generally be objective, trustworthy by all (institution). The European Parliament and the Council should do some kind of impact assessment while producing their amendments. Especially, in the Council the national differences should be studied carefully.

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

Impact assessments should be part of the Commission role to examine national implementation.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such

a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

Not yet.

France - Senate

I. Contrôle parlementaire de la de la Politique étrangère et de Sécurité Commune (PESC) et de la Politique Européenne de Sécurité et de Défense (PESD) par les parlements nationaux:

- 1) Votre parlement soumet-il la PESC et/ou la PESD à un contrôle parlementaire?
- ☒ Oui
☐ Non
- (Si la réponse est 'non', veuillez passer directement à la section II)*
- 2) Est-ce que le système de contrôle parlementaire utilisé pour les affaires européennes en général (comme décrit au premier chapitre du 3e rapport bisannuel de la COSAC) est le même que pour le contrôle parlementaire des projets de la PESC/PESD? Si tel n'est pas le cas, veuillez indiquer quelles sont les différences et comment votre parlement contrôle le domaine de la PESC/PESD? (i.e. quelles sont les commissions impliquées et quel est leur rôle respectif?)

Le système est le même.

- 3) Quelles propositions du Conseil européen votre parlement soumet-il au contrôle parlementaire?
- d) les actions communes?
- ☒ Oui
☐ Non
- e) les positions communes?
- ☒ Oui
☐ Non
- f) les stratégies communes?
- ☐ Oui
☒ Non
- 4) Votre parlement soumet-il des propositions pour la PESC et la PESD autres que celles mentionnées dans la question 3 (i.e. conclusions et décisions du Conseil européen) au contrôle parlementaire?
- ☐ Oui
☒ Non
- 5) Si la réponse à la question 4 est 'oui', comment votre parlement décide-t-il quelles propositions il examinera?
- _____

Est-ce que c'est votre gouvernement qui décide quelles propositions (ceux non mentionnés sous point 3) sont soumises au parlement pour contrôle? Est-ce qu'il existe un accord avec votre gouvernement sur la question quelles propositions non législatives doivent être soumises au contrôle

parlementaire? (Si oui, veuillez indiquer quand cet accord a été conclu et quel type de propositions il comprend.)

Opérations civiles de la PESD :

Contexte: Les opérations civiles de la PESD constituent un domaine d'activités de l'UE en plein essor. Les six opérations civiles actuelles sont:

- *Mission de police de l'UE dans l'ancienne République Yougoslave de Macédoine (Proxima)*
- [Mission "État de droit" menée par l'Union européenne en Géorgie \(Eujust Themis\)](#)
- [Mission de police de l'Union européenne en Bosnie-et-Herzégovine \(MPUE\)](#)
- [Mission de police de l'Union européenne à Kinshasa \(RDC\) \(EUPOL "Kinshasa"\)](#)
- [Mission intégrée "État de droit" de l'Union européenne pour l'Iraq \(Eujust Lex\)](#)
- [Mission de l'UE en République démocratique du Congo \(EUSEC RD Congo\)](#)

Ces missions ont-elles été soumises au contrôle parlementaire?

- ☒ Oui
- ☐ Non

- 6) Si la réponse à la question 6 est 'oui', veuillez indiquer quelles opérations votre parlement a soumis au contrôle parlementaire, et veuillez spécifier pour chaque opération à quelle étape de la procédure le contrôle parlementaire a eu lieu (i.e. après la publication d'un projet d'action commune, immédiatement avant la réunion du Conseil à laquelle cette action commune était décidée; ou après un accord au Conseil?)

MPUE (sur le projet d'action commune)

EUPOL-Kinshasa (sur le projet d'action commune)

Mission de police en Macédoine (sur le projet d'action commune)

- 7) Votre parlement a-t-il prévu des dispositions spécifiques pour soumettre des opérations civiles de la PESD à un contrôle parlementaire:

a) pour agir en une période de temps très courte?

- ☐ Oui
- ☒ Non

b) pendant l'intersession?

- ☐ Oui
- ☒ Non

Si vous avez répondu par 'oui' à l'une des questions, veuillez spécifier quelles sont ces procédures (la possibilité de réunions extraordinaires des Commissions, la possibilité d'aboutir à des accords par correspondance) et à combien de reprises elles ont été utilisées en pratique?

La procédure normale d'examen comprend une procédure d'urgence applicable toute l'année, quel que soit l'objet du texte.

- 8) Est-ce que les procédures du Conseil concernant les opérations civiles PESD laissent un temps adéquat à l'exécution du contrôle parlementaire?

☒ Oui
☐ Non

- 9) La classification des documents du Conseil comme 'restreint' ou comme 'confidentiel' constitue-t-elle une entrave à l'exécution du contrôle parlementaire des opérations ESDP?

☐ Oui
☒ Non

Les informations nécessaires ont toujours pu être obtenues.

Accord politique:

Contexte: Le Conseil des Ministres aboutit souvent à des 'accords politiques' sur la PESD et la PESC avant la finalisation de l'instrument, c'est-à-dire que certains détails sont approuvés lors de réunions ultérieures, voire même après la fin du contrôle parlementaire.

- 10) Est-ce que votre parlement a rencontré ce problème? Dans ce cas, quelles procédures ou pratiques utilise votre parlement pour s'occuper de ce problème?

Le Sénat n'est pas saisi des accords politiques. Cela limite la portée du contrôle, mais aucune procédure particulière n'a été mise en place.

II. Contrôle des analyses d'impact de la Commission :

- 1) Est-ce que votre parlement soumet les analyses d'impact au contrôle parlementaire?

☒ Oui
☐ Non

(Si la réponse est 'non', veuillez passer à la question 4)

- 2) Est-ce que votre parlement soumet les analyses d'impact au contrôle parlementaire en utilisant la procédure de contrôle parlementaire normale (comme décrite au premier chapitre du 3e rapport bisannuel de la COSAC)? Si tel n'est pas le cas, veuillez indiquer quelles sont les différences et comment votre parlement procède?

Les analyses d'impact sont examinées dans le cadre de l'examen global du document.

- 3) Est-ce que votre parlement utilise des ressources spéciales pour le contrôle parlementaire des analyses d'impact? Si oui, veuillez indiquer lesquelles. (i.e. Est-ce que le contrôle nécessite-t-il des fonds spéciaux? Est-ce que des services autres que la commission des affaires européennes sont impliqués? Utilisez-vous des expertises externes ?)

Non.

- 4) Quelle est l'opinion de votre parlement sur les analyses d'impact produites par la Commission ? Ces analyses sont-elles utiles au contrôle parlementaire ? Sont-elles adéquates ? Si tel n'est pas le cas, quelles sont vos suggestions pour les améliorer ? (Quelles informations supplémentaires souhaiteriez-vous y trouver ? Sur quelles informations les analyses devraient-elles se concentrer davantage)

Ces analyses sont utiles dans leur principe, mais leur contenu est souvent de portée limitée. Il serait nécessaire de présenter de manière beaucoup plus précise :

- le rapport coût/avantages de la mesure ;
- la justification au regard du principe de subsidiarité.

- 5) Votre parlement contrôle-t-il si les projets d'actes législatifs respectent les principes de subsidiarité et de proportionnalité ?

☒ Oui

☐ Non

Si la réponse est 'oui', veuillez spécifier si le contrôle parlementaire est exécuté soit sur base d'un exposé des motifs ou d'une étude d'impact de la Commission, soit sur base d'un exposé des motifs ou d'une analyse d'impact produit par le gouvernement, une combinaison des deux ou par d'autres moyens ?

Le contrôle n'est pas systématique : il ne concerne que les textes jugés importants. Il s'appuie sur les analyses présentées par la Commission.

- 6) Selon vous, quand est-ce que la Commission devrait entreprendre une analyse d'impact. (i.e. Avant le premier projet d'un acte législatif? Avant l'accord du Collège des Commissaires? Est-ce que l'analyse de l'impact de la législation devrait être un processus continu?)

Ce devrait être un processus continu. Par exemple, les amendements du Parlement européen modifient parfois sensiblement l'impact d'un texte.

- 7) Les analyses d'impact devraient-elles être révisées au regard des amendements au projet d'acte législatif de la Commission, afin de mieux refléter les projets amendés? Si oui, quand et par qui ces révisions devraient-elle être faites? Est-ce que le Parlement européen et le Conseil devraient produire des analyses d'impact de leurs amendements?

Oui.

- 8) La législation européenne devrait-elle être contrôlée après son implémentation pour analyser son impact, et si oui, quand et par qui?

Ce rôle doit incomber au Parlement européen et aux parlements nationaux.

- 9) D'aucuns argumentent en faveur de la création d'un organisme consultatif indépendant afin de conseiller les institutions européennes pour réduire la charge administrative de la législation sur les entreprises et les citoyens

(comme par exemple l'Actal aux Pays-Bas et la Task force «Mieux légiférer» en Grande-Bretagne). Cet organe pourrait reprendre la tâche de la Commission de produire des analyses d'impact. Quelle est l'opinion de votre parlement face à cette proposition?

Les analyses d'impact doivent demeurer de la responsabilité de la Commission, car elles sont une des bases du dialogue qui devrait s'instaurer entre celle-ci et les gouvernements, d'une part, les parlements d'autre part.

En outre, le nombre des organismes administratifs est déjà plus que suffisant.

III. Propositions concernant les sujets à traiter par la COSAC en 2006

L'article 7.1 du règlement interne de la COSAC stipule qu'«avant la dernière réunion ordinaire de chaque année, les délégations indiquent les sujets qu'elles proposent d'examiner l'année suivante.» L'article affirme également que la dernière COSAC de l'année devrait discuter cette question. L'article 7.1 A ajoute que «L'objet principal de chaque projet d'ordre du jour est lié au rôle de la COSAC comme organe d'échange d'informations, en particulier pour les aspects pratiques de l'examen parlementaire.» Conformément à ces deux articles, il y aura une discussion des sur la questions de quels sujets la COSAC devrait s'occuper pendant l'année suivante à la fin de la réunion d'octobre à Londres.

Afin d'alimenter cette discussion, veuillez indiquer les sujets que votre parlement propose comme thèmes pour la COSAC en 2006 :

– comment exercer le contrôle de la subsidiarité dans la construction de l'espace de liberté, de sécurité, de justice ?

– comment associer les parlements nationaux à l'évaluation des nouveaux États membres pour leur entrée dans l'espace Schengen ?

– le suivi parlementaire de la politique européenne de sécurité et de défense, et l'avenir de l'Assemblée de l'UEO.

France - National Assembly

I. Contrôle parlementaire de la de la Politique étrangère et de Sécurité Commune (PESC) et de la Politique Européenne de Sécurité et de Défense (PESD) par les parlements nationaux:

- 1) Votre parlement soumet-il la PESC et/ou la PESD à un contrôle parlementaire?

Oui

- 2) Est-ce que le système de contrôle parlementaire utilisé pour les affaires européennes en général (comme décrit au premier chapitre du 3e rapport bisannuel de la COSAC) est le même que pour le contrôle parlementaire des projets de la PESC/PESD? Si tel n'est pas le cas, veuillez indiquer quelles sont les différences et comment votre parlement contrôle le domaine de la PESC/PESD? (i.e. quelles sont les commissions impliquées et quel est leur rôle respectif?)

La PESC et la PESD sont soumis au même mécanisme de contrôle parlementaire prévu par l'article 88-4 de la Constitution française.

En revanche, la transmission des projets d'actes en matière de PESC et de PESD se fait directement par l'intermédiaire du Ministère des Affaires étrangères et non par le biais du SGCI, organe de coordination interministérielle sur les affaires européennes.

- 3) Quelles propositions du Conseil européen votre parlement soumet-il au contrôle parlementaire?

a) les actions communes?

Oui

b) les positions communes?

Oui

c) les stratégies communes?

Oui

- 4) Votre parlement soumet-il des propositions pour la PESC et la PESD autres que celles mentionnées dans la question 3 (i.e. conclusions et décisions du Conseil européen) au contrôle parlementaire?

En pratique, non. Toutefois, la clause facultative de l'article 88-4 rend possible, en théorie, la transmission au Parlement de tout autre projet d'acte (par exemple les conclusions et décisions du Conseil européen) en matière de PESC et de PESD. Mais le Parlement n'a pas la possibilité de contraindre le gouvernement à lui soumettre des projets d'actes qui n'entrent pas dans le champ de la clause obligatoire de l'article 88-4 de la Constitution.

- 5) Si la réponse à la question 4 est 'oui', comment votre parlement décide-t-il quelles propositions il examinera?

Est-ce que c'est votre gouvernement qui décide quelles propositions (ceux non mentionnés sous point 3) sont soumises au parlement pour contrôle? Est-ce qu'il existe un accord avec votre gouvernement sur la question quelles propositions non législatives doivent être soumises au contrôle parlementaire? (Si oui, veuillez indiquer quand cet accord a été conclu et quel type de propositions il comprend.)

La Délégation pour l'Union européenne peut s'autosaisir des propositions de son choix sans pour autant être autorisée à adopter des propositions de résolution sur les textes qui ne sont pas transmis par le Gouvernement au titre de l'article 88-4 de la Constitution.

Opérations civiles de la PESD:

Contexte: Les opérations civiles de la PESD constituent un domaine d'activités de l'UE en plein essor. Les six opérations civiles actuelles sont:

- *Mission de police de l'UE dans l'ancienne République Yougoslave de Mécédoine (Proxima)*
- [Mission "État de droit" menée par l'Union européenne en Géorgie \(Eujust Themis\)](#)
- [Mission de police de l'Union européenne en Bosnie-et-Herzégovine \(MPUE\)](#)
- [Mission de police de l'Union européenne à Kinshasa \(RDC\) \(EUPOL "Kinshasa"\)](#)
- [Mission intégrée "État de droit" de l'Union européenne pour l'Iraq \(Eujust Lex\)](#)
- [Mission de l'UE en République démocratique du Congo \(EUSEC RD Congo\)](#)

6) Ces missions ont-elles été soumises au contrôle parlementaire?

Oui

7) Si la réponse à la question 6 est 'oui', veuillez indiquer quelles opérations votre parlement a soumis au contrôle parlementaire, et veuillez spécifier pour chaque opération à quelle étape de la procédure le contrôle parlementaire a eu lieu (i.e. après la publication d'un projet d'action commune, immédiatement avant la réunion du Conseil à laquelle cette action commune était décidée; ou après un accord au Conseil?)

L'Assemblée nationale a examiné l'ensemble de ces opérations. Dans certains cas, le contrôle s'est fait selon une procédure dite d'urgence, à la demande du Gouvernement. L'intervention du Parlement intervient alors quasi-simultanément avec la réunion du Conseil.

8) Votre parlement a-t-il prévu des dispositions spécifiques pour soumettre des opérations civiles de la PESD à un contrôle parlementaire:

a) pour agir en une période de temps très courte?

Non

b) pendant l'intersession?

Non

- 9) Est-ce que les procédures du Conseil concernant les opérations civiles PESD laissent un temps adéquat à l'exécution du contrôle parlementaire?

En dépit de très nombreuses procédures d'urgence, un effort est fait par le Gouvernement pour tenir le Parlement informé le plus en amont possible.

- 10) La classification des documents du Conseil comme 'restreint' ou comme 'confidentiel' constitue-t-elle une entrave à l'exécution du contrôle parlementaire des opérations ESDP?

Non

Le contrôle parlementaire exercé dans les domaines de la PESD et de la PESD est un contrôle de nature essentiellement politique et non technique qui privilégie une approche globale à l'égard d'un pays ou d'une zone du monde. En ce sens, la classification des documents du Conseil comme « restreint » ou « confidentiel » n'est pas un handicap à l'exercice du contrôle parlementaire.

Accord politique:

Contexte: Le Conseil des Ministres aboutit souvent à des 'accords politiques' sur la PESD et la PESD avant la finalisation de l'instrument, c'est-à-dire que certains détails sont approuvés lors de réunions ultérieures, voire même après la fin du contrôle parlementaire.

Est-ce que votre parlement a rencontré ce problème? Dans ce cas, quelles procédures ou pratiques utilise votre parlement pour s'occuper de ce problème?

Le problème s'est en effet déjà posé. Il s'explique par l'urgence qui caractérise souvent la prise de décision dans les domaines de la PESD et de la PESD.

Toutefois, la fin de la procédure de contrôle parlementaire de l'article 88-4 de la Constitution n'empêche pas le Parlement d'approfondir son contrôle par d'autres moyens dès lors qu'il l'estime nécessaire. Il peut notamment s'agir des questions d'actualité au gouvernement, de la création d'une mission d'information et de la publication d'un rapport d'information.

II. Contrôle des analyses d'impact de la Commission:

- 1) Est-ce que votre parlement soumet les analyses d'impact au contrôle parlementaire?

Non.

Si les analyses d'impact ne font pas l'objet d'un contrôle parlementaire spécifique, il en est tenu compte dans le contrôle parlementaire d'ensemble d'une proposition d'acte européen.

- 4) Quelle est l'opinion de votre parlement sur les analyses d'impact produites par la Commission? Ces analyses sont-elles utiles au contrôle parlementaire?

Sont-elles adéquates? Si tel n'est pas le cas, quelles sont vos suggestions pour les améliorer? (Quelles informations supplémentaires souhaiteriez-vous y trouver? Sur quelles informations les analyses devraient-elles se concentrer davantage)

Les analyses d'impact de la Commission sont de qualité très variable selon les projets d'actes européens. Elles sont généralement très pertinentes dans le secteur de l'environnement.

Les évaluations pourraient néanmoins être plus précises, notamment sur l'impact financier des propositions de la Commission, telles que, par exemple, la proposition de règlement introduisant des éléments biométriques dans les passeports des citoyens de l'UE (COM 04/ 116 final).

Il est domaines, comme la JAI, où l'absence d'éléments statistiques fiables nuit à la pertinence de l'évaluation.

- 5) Votre parlement contrôle-t-il si les projets d'actes législatifs respectent les principes de subsidiarité et de proportionnalité?

Oui

Si la réponse est 'oui', veuillez spécifier si le contrôle parlementaire est exécuté soit sur base d'un exposé des motifs ou d'une étude d'impact de la Commission, soit sur base d'un exposé des motifs ou d'une analyse d'impact produit par le gouvernement, une combinaison des deux ou par d'autres moyens ?

Le contrôle parlementaire sur le respect du principe de subsidiarité se fonde sur une appréciation politique, au-delà du seul exposé des motifs ou de l'étude d'impact de la Commission.

L'appréciation de la conformité au principe de subsidiarité peut également résulter des auditions réalisées par le parlementaire désigné rapporteur sur la proposition d'acte européen.

- 6) Selon vous, quand est-ce que la Commission devrait entreprendre une analyse d'impact. (i.e. Avant le premier projet d'un acte législatif? Avant l'accord du Collège des Commissaires? Est-ce que l'analyse de l'impact de la législation devrait être un processus continu?)

Le plus en amont possible, et en tout état de cause avant l'accord du collège des commissaires.

- 7) Les analyses d'impact devraient-elles être révisées au regard des amendements au projet d'acte législatif de la Commission, afin de mieux refléter les projets amendés? Si oui, quand et par qui ces révisions devraient-elle être faites? Est-ce que le Parlement européen et le Conseil devraient produire des analyses d'impact de leurs amendements?

Dans la mesure du possible, des analyses d'impact simplifiées pourraient être réalisées par la Commission en cas de modification substantielle d'un projet d'acte législatif européen. Pour autant, il ne

semble ni souhaitable ni réaliste de conditionner le droit d'amendement du Conseil et du Parlement européen au dépôt d'une analyse d'impact.

- 8) La législation européenne devrait-elle être contrôlée après son implémentation pour analyser son impact, et si oui, quand et par qui?

Oui, conjointement par la Commission européenne et les Etats membres, dans des délais variables selon la législation concernée. Les rapports de mise en œuvre du droit communautaire devraient être présentés à l'examen du Conseil.

- 9) D'aucuns argumentent en faveur de la création d'un organisme consultatif indépendant afin de conseiller les institutions européennes pour réduire la charge administrative de la législation sur les entreprises et les citoyens (comme par exemple l'Actal aux Pays-Bas et la Task force «Mieux légiférer» en Grande-Bretagne). Cet organe pourrait reprendre la tâche de la Commission de produire des analyses d'impact. Quelle est l'opinion de votre parlement face à cette proposition?

Il convient d'être prudent sur la multiplication des structures, dès lors que les directions générales de la Commission européenne disposent de l'expertise nécessaire à la réalisation des analyses d'impact.

III. Propositions concernant les sujets à traiter par la COSAC en 2006

L'article 7.1 du règlement interne de la COSAC stipule qu'«avant la dernière réunion ordinaire de chaque année, les délégations indiquent les sujets qu'elles proposent d'examiner l'année suivante.» L'article affirme également que la dernière COSAC de l'année devrait discuter cette question. L'article 7.1 A ajoute que «L'objet principal de chaque projet d'ordre du jour est lié au rôle de la COSAC comme organe d'échange d'informations, en particulier pour les aspects pratiques de l'examen parlementaire.» Conformément à ces deux articles, il y aura une discussion des sur la questions de quels sujets la COSAC devrait s'occuper pendant l'année suivante à la fin de la réunion d'octobre à Londres.

Afin d'alimenter cette discussion, veuillez indiquer les sujets que votre parlement propose comme thèmes pour la COSAC en 2006:

- **La lutte contre le terrorisme (notamment le contrôle parlementaire sur les mesures privatives de liberté) ;**
- **La politique d'immigration.**

Germany - Bundesrat

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

~~e~~—Yes

X No,

(If the answer is 'no', please go to Section II on Impact Assessments)

The Act on Cooperation between the Federation and the Federal States in European Union Affairs (EUZBLG) does not apply on these matters.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

X Yes

~~e~~—No

(If the answer is 'no', please go to question 4.)

- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

The Bundesrat scrutinises Commission impact assessments as part of its standard EU scrutiny procedures.

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

The Bundesrat has no special resources to scrutinise impact assessments. The scrutiny is a part of the standard EU scrutiny procedure.

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

The view of the Bundesrat on the impact assessments is the following one: The Bundesrat is pleased to note that the Commission wishes to extend deregulation efforts and improved impact assessment to current EU draft legislation and new EU law rather than limiting this to EU legislation already in force for some time.

The Bundesrat underscores that particular importance should be given to examining alternatives to new legislative provisions when carrying out impact assessments. Within the context of impact assessments, consideration should be given to whether it would be possible to attain the goal pursued by draft EU legislation whilst avoiding or limiting the burden on the administration and businesses, or indeed whether it would be possible to entirely or partly scrap existing burdensome EU provisions in conjunction with the introduction of new draft legislation.

The Bundesrat is of the opinion that effective impact assessment is also of considerable importance for the “subsidiarity early warning system” envisaged in the Constitutional Treaty. Information from the EU on the advantages and drawbacks to be expected from planned legislation can support national parliaments’ scrutiny of compliance with the subsidiarity and proportionality principles.

There is therefore a need for the results of impact assessment to consider the economic, ecological and social impacts, whilst also providing information on the substance of the legislation, alternatives to legislation and the expected benefits, as well as direct and indirect financial and other burdens on the public sector and/or the target group(s) affected by the provisions. A long-term cost-benefit analysis should be taken as the basis for comparing the anticipated advantages and disadvantages of draft EU legislation.

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

X Yes

~~e—No~~

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

The Bundesrat scrutinises whether Commission proposals satisfy the principles of subsidiarity and proportionality; it is based on the Länders' own examinations and on the Commission's Explanatory Memorandum included in the proposal.

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

In the opinion of the Bundesrat the impact assessment of legislation should be undertaken in a very early stage of an EU-legislative procedure. The Bundesrat demands that the Länder should be involved in that early stage.

The Bundesrat considers that downstream impact assessment at the national level after an EU legislative act has been implemented is of lesser importance, as there is often little scope for national legislative bodies to make their influence felt when implementing EU law. Impact assessment in connection with European legislative instruments is the decisive factor.

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of

amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

- not yet decided -

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

The Bundesrat supports the Commission's request to Member States to carry out their own impact assessments when implementing EU legal instruments.

See also answer to question 6.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

In principle, concerning the creation of new authorities and institutions the Bundesrat has a rather restrictive attitude.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

No proposals will be made.

Germany - Bundestag

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
 - o Yes, depending on the subject
 - o No

(If the answer is 'no', please go to Section II on Impact Assessments)
- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

EU-Documents within the framework of CFSP and ESDP are not formally forwarded to the Bundestag in the same way as EU-documents concerning the first pillar are. But the government does forward all documents to the Bundestag. It is up to the Bundestag and its committees to decide which aspects it/they want to deliberate on. On measures relating to CFSP and ESDP the Bundestag is not expected to offer a statement of opinion as it is the case on issues of the first pillar.

Moreover, the committees of the Bundestag, for example the European affairs committee, has other ways of gathering information on these issues. The EU affairs committee invites representatives of EU institutions or other experts to relate on these subjects.

The committee on foreign affairs and the defence committee are also responsible for these subjects.

- 3) Does your parliament scrutinise proposals from the Council for the following -
 - d) Joint Actions?
 - o Yes, occasionally depending on the issue
 - o No
 - e) Common Positions?
 - o Yes, occasionally depending on the issue
 - o No
 - f) recommendations for Common Strategies?
 - o Yes occasionally depending on the issue
 - o No
- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?
 - o Yes
 - o No
- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

According to the Law on cooperation between the Federal Government and the German Bundestag in matters concerning the EU of 12 March 1993, every proposal relating to regulations and directives of the Council of the EU submitted by the Council's Secretariat-General, as well as proposals relating to decisions and other resolutions of the Council, shall be transmitted without delay to the Bundestag.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?
- o Yes
 - o No
- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

The European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima) was subject to a decision of the Bundestag.

- 8) Does your parliament have arrangements for scrutinising civilian EDSP missions -
- a) within very short time periods?
 - o Yes
 - o No
 - b) during parliamentary recesses?
 - o Yes
 - o No
- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?
- o Yes
 - o Not allways

10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

- ☐ Yes
- ☐ No

Documents classified as 'restricted' or 'confidential' are not forwarded to the Bundestag by the federal Government in any of the ways described above. The qualification thus hinders the Bundestag in its scrutiny of ESDP missions.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

The German Bundestag at all times is empowered to request full briefings from the Federal Government on any and all topics it may choose.

II. Scrutiny of the Commission's Impact Assessments:

1) Does your parliament currently scrutinise impact assessments produced by the Commission?

- ☐ Yes
- ☐ Not usually

2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

In the present situation the impact assessments produced by the Commission are not forwarded formally to the Bundestag and its committees.

3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

- ☐ Yes
- ☐ Not systematically

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Impact assessments on items of legislation should be carried out both before drafting legislative proposals and as an ongoing process. But on this aspect, a political position by the parliamentary groups of the Bundestag has not been taken yet.

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

No political decision on this issue yet.

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

No political decision on this issue yet.

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

No political decision on this issue yet.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

Due to recent political developments in Germany, it is difficult to predict what the specific concerns and priorities of the German Bundestag will be in the year 2006. General concerns, however, are the scrutiny of the Union's budget by the national parliaments, the role of national parliaments in CFSP and EDSP and the co-operation of national parliaments on the matter of subsidiarity.

Greece

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

1) Does your parliament scrutinise CFSP and/or ESDP matters?

☒ Yes, in principle.

☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

All of these matters can be scrutinised under the same procedures that apply for EU affairs. In this case the competent committees are mostly the Committee for National Defence and Foreign Affairs, and European Affairs Committee. In practice the European Affairs Committee has not dealt directly with any CFSP/ESDP matter, except institutional issues related with the future development of defence and security policy or the parliamentary control over CFSP/ESDP, as part of the discussions going on, during the European Convention and IGC .

The Committee for National Defence and Foreign Affairs invites quite often the respective ministers to hearings about issues of their competence and current developments, according to article 41a which regulates scrutiny in committee level, and particularly hearings of ministers or other government officials.

The Committees also obtain information from the Ministry for Foreign Affairs in the form of memoranda.

3) Does your parliament scrutinise proposals from the Council for the following -

a) Joint Actions?

☐ Yes

☐ No

b) Common Positions?

☐ Yes

☐ No

c) recommendations for Common Strategies?

☐ Yes

☐ No

4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

☒ Yes

- o No

Our Committees are entitled to scrutinise any proposal with regulatory content forwarded by the Government.

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

See above. A formalised agreement with the Government does not exist for the time being

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?

- o Yes
- X No

- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

- 8) Does your parliament have arrangements for scrutinising civilian EDSP missions -

- a) within very short time periods?

- X Yes
- o No

- b) during parliamentary recesses?

- X Yes
- o No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

There is no provision that rules out the functioning of Committees during parliamentary recesses. Also, according to our practice,

committee meetings are not regular and can be convened any time, even in short notice, when needed.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

☐ Yes

☐ No

In general yes. However council agendas sometimes are not available on time and we have to depend on information from the government.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

☐ Yes

Not particularly. This depends on the degree of cooperation between Government and Parliament.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ No

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)
-

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☐ Yes

☒ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)
- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?
-
- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?
-
- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?
-

Hungary

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
 - ☐ Yes
 - ☒ **No**

(If the answer is 'no', please go to Section II on Impact Assessments)

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
 - ☐ Yes
 - ☒ **No**
- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

Sometimes they can provide assistance to the scrutiny

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?
 - ☒ **Yes, occasionally in the course of the normal scrutiny procedure**
 - ☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

Each above-mentioned document may be useful for judging the criteria of subsidiarity and proportionality

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Before drafting the legislative proposal

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Yes, it should be done by the Commission

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?
-

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

NO

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

Constitutional Treaty

Free movement of persons in the EU

Freedom to provide services in the EU

Ireland - Houses of the Oireachtas

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

- ☐ Yes
- ☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

YES

- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

NO: The Oireachtas handles such measures according to an agreed protocol. A standard Oireachtas Scrutiny information note is provided by Government to the Chairman (and only the Chairman) of the Sub-Committee on European Scrutiny in advance of the adoption of CFSP measures. (At this stage such proposed measures are confidential. Regulation EC 1049/2001) The Chairman of the Committee can if he/she sees fit involve others in consideration of the matter.

When the measure is adopted and is no longer classified as confidential, the Minister concerned submits the text of the measure to the Oireachtas in the normal way for Oireachtas scrutiny. At this stage the proposals would be considered by the Sub-Committee on EU Scrutiny and the Joint Committee on Foreign Affairs.

- 3) Does your parliament scrutinise proposals from the Council for the following -

- a) Joint Actions?

- ☒ **Yes**
- ☐ No

- b) Common Positions?

- ☒ **Yes**
- ☐ No

- c) recommendations for Common Strategies?

- ☐ Yes
- ☒ **No**

(The committee may review including such documents in the future)

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

- ☒ **Yes (Council Decisions)**
- ☐ No

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

All proposals in those areas

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?

- ☐ Yes
- ☐ No

Scrutiny of such matters would also arise in the context of meetings of the Joint Committee on European affairs with the Minister for Foreign Affairs in advance of each General Affairs and External Relations Council.

- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

The majority of the missions mentioned were scrutinised prior to the relevant Council meeting as per Oireachtas procedures for handling confidential documents as detailed above.

- 8) Does your parliament have arrangements for scrutinising civilian EDSP missions -

a) within very short time periods?

- ☐ Yes
- ☐ No

b) during parliamentary recesses?

- ☐ Yes
- ☐ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?
- ☐ Yes
 - ☐ No

To date there has been no difficulty for the Oireachtas.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?
- ☐ Yes
 - ☒ No

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

They are considered on a case by case basis. Often this arises in respect of annexes to "sanction" measures.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- ☒ Yes
 - ☐ No
- (If the answer is 'no', please go to question 4.)*

- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

Yes

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

No (As in Q2 they are scrutinised as part of our standard scrutiny procedures)

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

One consideration has been noted during scrutiny ie that they tend to be centred around consultation with a limited number of organisations.

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

o Yes

o No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

This is achieved by analysis of the following; the Commissions proposal itself; reference to legal Advice and the view of the Government Department responsible for the proposal.

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

The Commission should undertake to carry out impact assessments focussed before the proposal has been drafted, but also on an ongoing basis.

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Yes, where amendments are substantial.

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

Yes. There should be a planned, built-in post implementation assessment point for significant legislative proposals.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

Before offering any view it would be useful to learn more about these two existing bodies and other parliament's views.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for

exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

This might be best done nearer to (but in advance of) the date of the Plenary in October to ensure that topics are timely and appropriate. However it is possible that the Joint Oireachtas Committee may wish to raise measures to promote debate of EU Affairs in the plenary of national parliaments among other matters.

Italy - Senate

Le contrôle parlementaire de la PESC et de la PESD par les Parlements nationaux

Dans le Parlement italien, le contrôle sur les matières concernant la PESC et la PESD s'effectue à travers les lois et les règlements prévus par le processus d'appartenance de l'Italie à l'Union européenne. À ce propos, la récente loi n. 11, du 4 février 2005, établit que les projets d'actes communautaires et de l'Union européenne sont transmis aux Chambres par le Président du Conseil des ministres ou bien par le Ministre des politiques communautaires, pour l'attribution aux organes parlementaires compétents, en indiquant aussi la date prévue de leur discussion ou adoption. La nouveauté principale par rapport aux dispositions précédentes concerne la mention explicite des projets d'actes de l'Union européenne.

En outre, les Commissions des affaires étrangères et de la défense du Sénat et de la Chambre des députés, dans le cadre des pouvoirs généraux de contrôle sur l'action du Gouvernement, discutent des questions de politique étrangère et de politique de défense, en considération également de l'appartenance de l'Italie à l'Union européenne, au cours de séances spéciales, convoquées sur des thèmes spécifiques d'actualité ou d'intérêt essentiel. Cela s'effectue à travers la procédure, prévue par le Règlement, des "Communications du Gouvernement", sur lesquelles se tient un débat. Le même mécanisme des "Communications du Gouvernement" s'utilise si l'on entend discuter des mêmes questions dans l'Assemblée plénière.

Enfin, à propos des opérations civiles de la PESD, les Chambres effectuent leur contrôle pendant la phase d'autorisation législative des frais prévus pour l'exécution de ces missions.

Le contrôle des analyses d'impact de la Commission européenne

L'analyse de l'impact de la législation a été introduite en Italie par la loi n. 50 (Loi de simplification pour l'année 1998) du 8 mars 1999, qui, à l'article 5, prévoit que, à titre d'expériment, elle soit effectuée sur l'organisation des administrations publiques et sur l'activité des citoyens et des entreprises par rapport aux projets de loi adoptés par le Gouvernement et aux règlements ministériels et interministériels. Ensuite, l'article 2, premier alinéa, lettre f), de la loi n. 229, du 29 juillet 2003, a délégué le Gouvernement à adopter des dispositions pour la vérification de l'impact de la législation à travers des instruments efficaces d'information et de participation des personnes et des catégories concernées.

Enfin, le Parlement est en train d'examiner le projet de loi de simplification et de réorganisation législative pour l'année 2005, qui, à l'article 15, définit l'analyse de l'impact de la législation comme une évaluation préalable (*ex ante*) de ses effets hypothétiques intervenant sur les activités des citoyens et des entreprises et sur l'organisation et le fonctionnement des administrations publiques, à travers la comparaison d'options alternatives. La même loi définit également la vérification de l'impact de la législation (*ex post*) comme une évaluation, même périodique, de la réalisation des buts prévus et comme une estime des frais et des effets produits par la législation sur les activités des citoyens et des entreprises et sur l'organisation et le fonctionnement des administrations publiques.

L'examen des propositions législatives de la Commission européenne, que le Parlement italien mène dans la phase de formation du droit communautaire, se concentre également sur le thème de l'impact de la législation européenne. À cet égard, sont particulièrement importants les "rôles de marche" (*road maps*) indiqués dans le programme législatif et de travail pour l'année 2005, qui fournissent des informations utiles sur l'analyse de l'impact - qui doit être effectuée dans une phase

initiale et dans une phase successive - de chaque proposition contenue dans l'annexe au programme.

Italy - Chamber of Deputies

Reply to the COSAC questionnaire

The Chamber of Deputies carefully scrutinizes all the initiatives and draft acts of the European Union regarding the Common Foreign and Security Policy and the Defence Policy.

The procedures followed for the scrutiny in this fields are the same as those used for the general scrutiny (which are illustrated in the paper we sent for the preparation of the third six-monthly report of the COSAC Secretariat).

The sources of law governing Parliamentary work relating to the scrutiny in EU matters and the implementation of Community law into national legislation, are **Law no. 11 of 4 February 2005** (enacting general provisions regarding Italy's participation in the EU decision-making process and procedures for complying with Community obligations) and **Parliamentary Rules of Procedure**.

In the Chamber of Deputies, the European Union Policies Committee has a general responsibility for the scrutiny of EU affairs (in the so-called ascending phase) as well as for transposition of the legislation into Italian law (the so-called descending phase). This Committee acts as a "filter", expressing an opinion on drafts and documents relating to the implementation of Community law and on any other draft legislation in terms of compatibility with Community law. The powers of all the other Committees over the examination of draft legislation to transpose and implement Community law, each within their respective fields of competence by subject matter, remain unaffected.

Law no. 11/2005 introduced in the "**Parliamentary reserve**", establishing that if the Parliament has started the scrutiny of EU draft measures or other measures sent by the Government, the latter can proceed to exercise its own law-making functions in the drafting of EU legislation only after Parliament has completed the scrutiny or if after 20 days the Chambers have failed to issue their views. This time limit applies starting from the date in which the Government informed Parliament that it used the parliamentary scrutiny reserve in the Council of Ministers of the EU. The reserve may also be used by the Government for draft measures and provisions of special political, economic or social importance. The new system has not been applied yet.

With particular reference to ongoing operations in the matter of the **Common Security and Defence Policy** (CSDP) the scrutiny and policy-setting activities of the Chamber of Deputies is also based on advisories that are specifically submitted to it by the Italian government.

The **impact assessments** drawn up by the European Commission taken into consideration for the generally scrutiny of EU affairs.

Latvia

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

☒ **Yes**

☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

However, only issues which are B points on the agenda of ministerial meetings of the Council of Ministers are dealt with. CFSP and ESDP matters are seldom B points.

- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Yes, standard procedures for scrutiny of EU Affairs also apply for the scrutiny of CFSP/ESDP policy proposals.

- 3) Does your parliament scrutinise proposals from the Council for the following -

- d) Joint Actions?

☒ **Yes**

☐ No

- e) Common Positions?

☒ **Yes**

☐ No

- f) recommendations for Common Strategies?

☒ **Yes**

☐ No

The above-mentioned proposals are reviewed as government's positions only before being communicated to the meetings of the Council of Ministers. Under current scrutiny procedures, the government should establish positions for all the B points which are on the Council's agenda.

Therefore, as the above-mentioned proposals are seldom B points on the agenda of meetings of the Council of Ministers, they are thus not often discussed at the European Affairs Committee level.

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

☒ **Yes**

☐ No

Only when those proposals are discussed at the ministerial Council's meetings (designated as B points).

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

Proposals are reviewed only if they are discussed at the ministerial Council's meetings (B points).

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?

☐ Yes

☒ **No**

Only brief information notes put out by the ministry in charge are presented to the European Affairs Committee.

- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).
-

- 8) Does your parliament have arrangements for scrutinising civilian EDSP missions -

a) within very short time periods?

☐ Yes

☒ **No**

b) during parliamentary recesses?

☐ Yes

☒ **No**

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you

reach agreement by correspondence), and state how often they have been used in practice.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?
- ☐ Yes
 - ☐ No

As Latvia has no special procedure for parliamentary scrutiny of civilian ESDP operations, and those operations are not discussed at European Affairs Committee meetings (although information notes may be given out), it is not possible to evaluate the adequacy of the time provided for parliamentary scrutiny by the procedures of the Council.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?
- ☐ Yes
 - ☒ **No**

It is up to the Government to decide whether a position set by them on any specific piece of EU legislation is confidential, and if special admission authority is required for parliamentarians. Should admission authority be needed, this could hinder parliamentary scrutiny, because Members of the European Affairs Committee could have not secured this authority yet. At this time a procedure has been initiated so as to provide special access to confidential files (for the Members of the European Affairs Committee and for the civil servants of the Committee).

However, confidentiality of documents within the scope of ESDP missions does not constitute a problem at this time, since ESDP missions are not reviewed by the Committee in Latvia.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has met with? If so, what procedures or practices do you have in place to deal with this issue?

The parliament of Latvia has so far not experienced any problems of the kind.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ **No**

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you suggest that they be improved? (e.g. What further information should they contain? What should they focus on?)

Yes, the impact assessments of the Commission are of practical help, especially for our Parliament's sector committees, who are only now starting to involve themselves in discussing EU affairs.

So far the impact assessments we have seen were all adequate. The main issue is the lack of impact assessments for a number of pieces of EU legislation. The new Commission has helpfully placed issuance of impact assessments for all EU legislative acts as one of its current priorities. We must work towards this priority being followed through.

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☐ Yes

☒ **No**

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

Currently only the legal basis is looked at when a piece of EU legislation is examined at the meetings of the European Affairs Committee. The European Affairs Committee is aware that the subsidiarity principle encompasses more than the mere legal basis. We are currently working on establishing a mechanism for heeding this principle.

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

The impact study of a new piece of legislation should not begin before the final version of that piece of legislation is tabled, lest unnecessary but time-consuming work be carried out - that is, work on parts of the legislation that may not be retained in its final form. We believe that impact assessment ought to take place after drafting - when the legislation has jelled in its proposed final form - and before adoption by the College.

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

In theory, the revision of impact assessment in the light of amendments to the Commission's proposal would be the most appropriate procedure. However, the EU decision-making process should be consistent with practical needs, and hence not overly complex. An ad hoc analysis should be carried out on a case by case basis as conditions warrant.

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

To assess an impact of all EU legislation after implementation would take up too many resources. Therefore, only specific or sensitive areas should be analysed. This could be done by the Commission together with governments of the Member States. Involvement of parliaments would depend on the constitutional systems of each Member State.

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

We would need a more detailed proposal to be able to formulate an opinion. As a rule, the creation of new bodies should be avoided.

Lithuania

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
 - ☒ Yes
 - ☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)
- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Under the Lithuanian parliamentary scrutiny of EU matters system, the CFSP/ESDP issues fall under the competence of the Committee on Foreign Affairs (FAC) of the Seimas of the Republic of Lithuania. Standard scrutiny procedures as laid out in chapter 3.15 of the 3rd biannual COSAC report apply to the CFSP/ESDP issues. The main difference is that the responsible Committee is FAC instead of the Committee on European Affairs (EAC).

The FAC and the EAC, are two Committees of the Seimas with an exceptional right to act on behalf of the Seimas on EU matters. This right has been established by the Constitutional Act on Membership of the Republic of Lithuania in the European Union, of 13 July 2004.

The FAC:

- defines the priority level of the CFSP/ESDP legislative proposals (see reply to the question No 5) emanating from the European Institutions. Priorities are established also for non-legislative documents. National positions on the CFSP/ESDP proposals, which have been defined as 'very relevant or relevant', are sent through the computerised database LINESIS by the Government to Seimas, and then transferred to FAC.

- expresses an opinion on behalf of Seimas to the Government or presents a Committee Conclusion regarding:

- proposals to adopt legal acts of the EU and other EU documents relating to the issues of the EU CFSP/ESDP.**
- certain aspects of external relations of the European Union related to the external trade and co-operation with the World Trade Organisation.**
- within the limits of its competence FAC may present to the Seimas conclusions on the compliance of the proposals to adopt EU legal acts with the principle of subsidiarity.**

- considers the national positions presented by the Foreign Affairs Minister, the Minister of Defence and, if relevant, the Minister of Interior (fight with terrorism, migration, asylum, external frontiers), before the

relevant Council meetings. The Minister is obliged to report back on the meeting to the Committee both orally and in writing.

As laid out in the Seimas Statute, if there is a need, both Committees may organise joint meetings. A specialised committee, after receiving a relevant EU document, related to its competence, adopts its conclusions and forwards it for the consideration to the FAC.

- 3) Does your parliament scrutinise proposals from the Council for the following -
- a) Joint Actions?
 - ☒ Yes
 - ☐ No
 - b) Common Positions?
 - ☒ Yes
 - ☐ No
 - c) recommendations for Common Strategies?
 - ☒ Yes
 - ☐ No
- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?
- ☒ Yes
 - ☐ No

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

According to the procedure, the Government overviews all documents emanating from the European Institutions. All 'very relevant' and 'relevant' documents on CFSP/ESDP are sent by the Government to the Seimas and then forwarded to the FAC for consideration.

The list of priority documents to be considered in Seimas has been established on the basis of the Commission Annual Legislative and Work Programme. The priority list has been jointly approved by the EAC and FAC Conclusion on 9 March 2005.

If the document has not been planned in the Commission's Annual Legislative and Work Programme and the priority level has not been established, the FAC may define the priority level of a non-prioritised document. Otherwise, the priority level for such document is suggested by the institution responsible for the analysis of the document and preparation of the national position.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

- ☐ Yes
- ☒ **No**

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

a) within very short time periods?

- ☒ **Yes**
- ☐ No

b) during parliamentary recesses?

- ☒ **Yes**
- ☐ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

During the parliamentary sessions, the FAC meets according to the need.

Extraordinary Committee meetings may be convened, by the written request of the Chairman of Seimas, 1/3 of the Committee Members, upon the instruction of the Seimas or the Seimas Board, or by the reasoned decision of the Committee Chairman.

In the case of urgency, the Committee Chairman may decide to use the procedure of debating the position in the Committee by questioning the Committee Members, but without convening an official meeting.

9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

- ☒ **Yes**
- ☐ No

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?
- ☐ Yes
 - ☒ **No**

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?
- No particular problems to this date.**

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- ☐ Yes
 - ☒ **No**
- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

The Seimas of the Republic of Lithuania does not scrutinise impact assessments produced by the Commission, because they are not produced in the Lithuanian language. The Seimas receives impact assessments in English, therefore under domestic legislation the Committees of the Seimas can not deliberate them.

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?
- ☒ **Yes**
 - ☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

This is done on the basis of an Explanatory Memorandum (Position) produced by the Lithuanian Government and an Impact Assessment, if there is such also produced by the Government.

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

The assessing the impact of legislation should be an on-going process.

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Commission's impact assessments should be revised in the light of amendments to the Commission's proposal. Such revisions should be done only if the amendments are substantial as relates to the substance of the draft legislative proposal. Revisions of the impact assessments should be done only by the European Commission, even if the European Parliament and the Council have produced amendments to the draft legislative proposal.

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

Yes, it should. It should be done by the European Commission.

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

No, the Seimas of the Republic of Lithuania has not yet discussed this proposal.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

We will come back with our proposals after 15 July 2005.

Luxembourg

I. Contrôle parlementaire de la de la Politique étrangère et de Sécurité Commune (PESC) et de la Politique Européenne de Sécurité et de Défense (PESD) par les parlements nationaux:

- 1) Votre parlement soumet-il la PESC et/ou la PESD à un contrôle parlementaire?
 - o Non, mais certains aspects sont discutés dans le cadre de la déclaration sur la politique étrangère que le Ministre des Affaires étrangères présente une fois par an à la Chambre des Députés.***
(Si la réponse est 'non', veuillez passer directement à la section II)

Opérations civiles de la PESD:

Contexte: Les opérations civiles de la PESD constituent un domaine d'activités de l'UE en plein essor. Les six opérations civiles actuelles sont:

- *Mission de police de l'UE dans l'ancienne République Yougoslave de Mécédoine (Proxima)*
- [*Mission "État de droit" menée par l'Union européenne en Géorgie \(Eujust Themis\)*](#)
- [*Mission de police de l'Union européenne en Bosnie-et-Herzégovine \(MPUE\)*](#)
- [*Mission de police de l'Union européenne à Kinshasa \(RDC\) \(EUPOL "Kinshasa"\)*](#)
- [*Mission intégrée "État de droit" de l'Union européenne pour l'Iraq \(Eujust Lex\)*](#)
- [*Mission de l'UE en République démocratique du Congo \(EUSEC RD Congo\)*](#)

- 2) Ces missions ont-elles été soumises au contrôle parlementaire?

Le Luxembourg participe aux missions PROXIMA et MPUE.

Aux termes de l'article 1^{er} (2) de la loi du 12 juillet 1992 relative à la participation du Grand-Duché de Luxembourg à des opérations pour le maintien de la paix (OMP) dans le cadre d'organisations internationales, le Gouvernement consulte les commissions compétentes de la Chambre des Députés, en l'occurrence la Commission des Affaires étrangères et européennes, de la Défense, de la Coopération et de l'Immigration.

L'article 2 (3) précise que pour chaque opération pour le maintien de la paix à laquelle le Luxembourg participe, un règlement grand-ducal à prendre sur avis obligatoire du Conseil d'Etat et de la Conférence des Présidents de la Chambre des Députés détermine les modalités d'exécution de la présente loi.

- 3) Si la réponse à la question 6 est 'oui', veuillez indiquer quelles opérations votre parlement a soumis au contrôle parlementaire, et veuillez spécifier pour chaque opération à quelle étape de la procédure le contrôle parlementaire a eu lieu (i.e. après la publication d'un projet d'action commune, immédiatement avant la réunion du Conseil à laquelle cette action commune était décidée; ou après un accord au Conseil?)

La consultation se fait uniquement en cas de participation luxembourgeoise.

II. Contrôle des analyses d'impact de la Commission:

- 1) Est-ce que votre parlement soumet les analyses d'impact au contrôle parlementaire?

o Non

- 2) Votre parlement contrôle-t-il si les projets d'actes législatifs respectent les principes de subsidiarité et de proportionnalité?

o Non, pas encore.

Si la réponse est 'oui', veuillez spécifier si le contrôle parlementaire est exécuté soit sur base d'un exposé des motifs ou d'une étude d'impact de la Commission, soit sur base d'un exposé des motifs ou d'une analyse d'impact produit par le gouvernement, une combinaison des deux ou par d'autres moyens ?

- 3) Selon vous, quand est-ce que la Commission devrait entreprendre une analyse d'impact. (i.e. Avant le premier projet d'un acte législatif? Avant l'accord du Collège des Commissaires? Est-ce que l'analyse de l'impact de la législation devrait être un processus continu?)

Une analyse d'impact devrait être réalisée le plus tôt possible dans la procédure, donc de préférence avant le premier projet d'un acte législatif, dans la mesure du possible.

- 4) Les analyses d'impact devraient-elles être révisées au regard des amendements au projet d'acte législatif de la Commission, afin de mieux refléter les projets amendés? Si oui, quand et par qui ces révisions devraient-elle être faites? Est-ce que le Parlement européen et le Conseil devraient produire des analyses d'impact de leurs amendements?

Il serait logique de réviser les analyses d'impact au regard des amendements, cette révision pouvant être faite soit par le Parlement européen ou le Conseil, donc par les auteurs des amendements, soit par la Commission européenne, ayant établi la (première) analyse d'impact.

- 5) La législation européenne devrait-elle être contrôlée après son implémentation pour analyser son impact, et si oui, quand et par qui?

L'impact de la législation européenne pourrait être contrôlé par la Commission européenne.

- 6) D'aucuns argumentent en faveur de la création d'un organisme consultatif indépendant afin de conseiller les institutions européennes pour réduire la charge administrative de la législation sur les entreprises et les citoyens (comme par exemple l'Actal aux Pays-Bas et la Task force «Mieux légiférer» en Grande-Bretagne). Cet organe pourrait reprendre la tâche de la Commission de produire des analyses d'impact. Quelle est l'opinion de votre parlement face à cette proposition?

III. Propositions concernant les sujets à traiter par la COSAC en 2006

L'article 7.1 du règlement interne de la COSAC stipule qu'«avant la dernière réunion ordinaire de chaque année, les délégations indiquent les sujets qu'elles proposent d'examiner l'année suivante.» L'article affirme également que la dernière COSAC de l'année devrait discuter cette question. L'article 7.1 A ajoute que «L'objet principal de chaque projet d'ordre du jour est lié au rôle de la COSAC comme organe d'échange d'informations, en particulier pour les aspects pratiques de l'examen parlementaire.» Conformément à ces deux articles, il y aura une discussion des sur la questions de quels sujets la COSAC devrait s'occuper pendant l'année suivante à la fin de la réunion d'octobre à Londres.

Afin d'alimenter cette discussion, veuillez indiquer les sujets que votre parlement propose comme thèmes pour la COSAC en 2006:

Les deux sujets suivants pourraient être approfondis en 2006 :

- ***critères pour le contrôle du respect du principe de subsidiarité***
- ***espace de liberté, de sécurité et de justice***

Malta

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

☐ Yes

☒ No

(If the answer is 'no', please go to Section II on Impact Assessments)

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ No

(If the answer is 'no', please go to question 4.)

-
- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

No, parliament ensures that the Maltese Government impact assessments consider all aspects, that is, political, legal, economic, social, environmental, etc.

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

No, we do not draw expertise from outside parliament.

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

The Commission's impact assessments are valid as a starting point for discussion, however, they do not always reflect the realities of Malta, the smallest EU member, both in population and size.

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☒ Yes

☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

Yes, but not always. This is usually based on the Explanatory Memorandum produced by Government.

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Ideally, it should be an ongoing process.

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

as per No 6 above.

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

Yes; on an ongoing basis by the Commission and national authorities.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

Netherlands - Senate

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
- ☐ Yes
 - ☒ **No However, the Senate discusses these matters with the government in an annual debate on the Defence budget and Foreign Affairs budget.**
- (If the answer is 'no', please go to Section II on Impact Assessments)*

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- ☐ Yes
 - ☒ **No – only if the impact assessment is attached to a proposal that is subject to an in-depth study in the Senate will it be studied as well**

-
- 2) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?
- ☒ Yes
 - ☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

This is done on the basis of the Commission's Explanatory Memorandum and an Explanatory Memorandum produced by our Government

- 3) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

In order to avoid any bias in drafting a proposal, an impact assessment can best be undertaken before drafting a proposal. After the proposal had been adopted assessing the impact legislation should be an on-going process.

- 4) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

It is the responsibility of the European Parliament and the Council to assess the impact of their amendments and with that substantiate their amendments. These arguments should be included with their proposals for amendments.

- 5) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

It would be advisable for the European Commission to examine the impact of important proposals and review the proposals in cooperation with the European Parliament and the Council. In a draft proposal such a review-clause can be introduced in which is also stated when the review should take place.

- 6) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

At first glance, we believe this could be looked upon as a positive proposal.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

Follow-up on the report "Management and control of the EU- finance" that was discussed during the COSAC in Luxembourg

The proposal for establishing a European Union Agency for Fundamental Rights

Netherlands - House of Representatives

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

☒ Yes

☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Standard procedure applies, i.e. the government and the relevant sectoral committee discuss the Council agenda before each Council meeting, and the results afterwards. Not mandates, but political confidence is the governing principle for parliamentary scrutiny of the government's handling of EU matters.

If members want to lay down Parliament's position formally, motions can be tabled in plenary.

Sectoral committees involved in CFSP and ESDP matters: Foreign Affairs, Defence, and EU Affairs.

- 3) Does your parliament scrutinise proposals from the Council for the following -

- a) Joint Actions?

☒ Yes

☐ No

- b) Common Positions?

☒ Yes

☐ No

- c) recommendations for Common Strategies?

☒ Yes

☐ No

a, b, c: Provided they occur on the Council agenda. If not, there is no scrutiny, only discussion afterwards.

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

☒ Yes

☐ No

Provided they occur on the Council agenda. If not, there is no scrutiny, only discussion afterwards.

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

If the issue occurs on the Council agenda, any member of the relevant committee can ask questions or give his/her opinion.

A formalised agreement exists in the sense that the agenda of every Council or European Council meeting is discussed in a committee meeting or plenary debate. The government provides an annotation (including the position to be taken) to every agenda item.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

☒ Yes

☐ No

Provided they occur on the Council agenda. Sometimes these missions are discussed in general terms during debates on Dutch policy concerning the area or country in question.

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

See under 6 - an example would be the EU Rule of Law Mission for Iraq, which was also discussed during a debate on Dutch Iraq policy.

Joint Actions of the Council are discussed during the regular debates preceding each Council meeting (see above). Then, if and when the government decides to participate in a mission, that decision is discussed in Parliament. For civilian missions, no formal assent is required. However, should Parliament withhold its assent, this would normally mean the decision is cancelled.

8) Does your parliament have arrangements for scrutinising civilian EDSP missions -

a) within very short time periods?

☐ Yes

☒ No

b) during parliamentary recesses?

☐ Yes

☒ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

General procedures exist to call back Parliament from recess, but no specific arrangements have been made for ESDP missions.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

☐ Yes

☐ No

Not applicable. So far, no parliamentary party has required government to seek formal assent by Parliament. The present speed of EU decision-making leaves enough time for discussion.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

☐ Yes

☒ No

No problems so far. Procedures exist which allow government to inform Parliament on a confidential basis.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

No problem, due to the nature of Dutch parliamentary scrutiny of the government's handling of EU matters (political confidence, not mandates, as governing principle)

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ No

Parliament does not look into the Commission's impact assessments. It does however consider the Dutch government's assessments of the regulatory, financial and other effects Commission proposals would have for Dutch business, society, and local, regional and national government levels.

- 2) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☒ Yes

☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

The Commission's explanatory memorandum and the Dutch government's position laid down in the position papers it produces for most relevant Commission proposals.

- 3) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Parliament is in recess – members could not be consulted regarding this question.

- 4) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Parliament is in recess – members could not be consulted regarding this question.

- 5) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

Parliament is in recess – members could not be consulted regarding this question

- 6) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

Parliament is in recess – members could not be consulted regarding this question

Poland - Senate

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
- ☐ Yes
 - ☒ Not yet
- (If the answer is 'no', please go to Section II on Impact Assessments)*

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- ☐ Yes
 - ☒ No
- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

The question has not been considered in the Polish Senate yet.

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?
- ☐ Yes
 - ☒ Not yet

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

The question has not been considered in the Polish Senate yet.

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

The question has not been considered in the Polish Senate yet.

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

The question has not been considered in the Polish Senate yet.

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

The question has not been considered in the Polish Senate yet.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

1. EU's New Eastern Dimension
2. Cultural and ethnic problems in the Balkans
3. Free movement of labour in the EU
4. Free movement of services in the EU
5. EU's New Financial Perspective 2007-2013

Poland - Sejm

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?
 - o **Yes** (in two cases: Proposal for a Council Regulation amending Regulation (EC) No 131/2004 concerning the certain restrictive measures in respect of Sudan and COM (2005) 182 and Proposal for a Council Regulation concerning the certain restrictive measures in respect of Democratic Republic of Congo COM (2005) 228 final)
 - o No

(If the answer is 'no', please go to Section II on Impact Assessments)
- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

We do not have any special procedures to scrutiny the CFSP/ESDP policy proposals. So far now the EU Affairs Committee have not scrutinised such matters, except two documents:

Proposal for a Council Regulation amending Regulation (EC) No 131/2004 concerning the certain restrictive measures in respect of Sudan and COM (2005) 182

and Proposal for a Council Regulation concerning the certain restrictive measures in respect of Democratic Republic of Congo COM (2005) 228 final)

According to the government's proposal the EU Affairs Committee of the Sejm agreed to modify the rules of cooperation between the government and the Committee in respect of the EU legislative ***proposals setting up international sanctions***, which requires the use of fast legislative track. This means that the government shall present an issue and its position to the Committee even if it does not have the final draft document. Such procedure allows the parliament to take part in the decision making process from the very beginning.

- 3) Does your parliament scrutinise proposals from the Council for the following
 - a) Joint Actions?
 - o Yes
 - o **No**
 - b) Common Positions?
 - o **Yes**
 - o No
 - c) recommendations for Common Strategies?
 - o Yes

- o **No**
- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?
- o Yes
 - o **No**
- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?
- For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)*

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?
- o Yes
 - o **No**
- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).
- 8) Does your parliament have arrangements for scrutinising civilian ESDP missions -
- a) within very short time periods?
- o Yes
 - o **No**
- b) during parliamentary recesses?
- o Yes
 - o **No**
- If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.*

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?
 - o Yes
 - o No
- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?
 - o Yes
 - o No

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?
Yes. See item 2.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
 - o **Yes** (If the document contains the impact assessment)
 - o No

(If the answer is 'no', please go to question 4.)

- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

If the document contains the impact assessment, it is a part of the usual scrutiny procedure.

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

No special procedure. We rely on the Bureau of Research, which is a Sejm's service outside the European Union Affairs Committee, whose opinions can also relate to the impact assessment, but this is the regular procedure. No outside expertise has been requested.

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do

you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

We find them insufficient. They do not present figures allowing to calculate the real impact.

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?
- o Yes
 - o **No, not yet**

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

After drafting legislative proposal and during the entire legislative process.

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

YES

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

YES. It would be useful, but we are aware that it would be very complicated and expensive. It would be necessary to specify the list of documents' categories to be examined.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

It has not been discussed yet, however we all agree that better regulation is necessary.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

1. Ukrainian issue and COSAP request in the contest of the EU Neighbourhood policy
2. Future of the Constitutional Treaty
3. Free movement of labours
4. Free movement of services

Portugal

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

☒ Yes

☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

YES, IN COOPERATION WITH FOREIGN AFFAIRS COMMITTEE AND DEFENCE COMMITTEE

- 3) Does your parliament scrutinise proposals from the Council for the following

- a) Joint Actions?

☒ Yes

☐ No

- b) Common Positions?

☒ Yes

☐ No

- c) Recommendations for Common Strategies?

☒ Yes

☐ No

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

☒ Yes

☐ No

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

OVERALL ASSESSMENT OF CFSP

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

☐ Yes

☒ **NO**

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

a) within very short time periods?

☐ Yes

☒ **No**

b) during parliamentary recesses?

☐ Yes

☒ **No**

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

☐ Yes

☐ No

10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

☐ Yes

☒ **No**

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

NO

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- ☐ Yes
 - ☒ **No**
-

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☒ **Yes**

☐ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

GLOBAL ASSESSMENT OF COMMISSION'S PROPOSALS

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

SHOULD BE AN ON-GOING PROCESS

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

YES

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

**YES. BOTH AT EUROPEAN AND NATIONAL LEVEL
ACCORDING WITH AGREED GUIDELINES.**

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

NO

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

**BALANCE BETWEEN ECONOMIC REFORM AND SOCIAL
DIMENSION.
SECURITY POLICY.**

Slovakia

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

1) Does your parliament scrutinise CFSP and/or ESDP matters?

- Yes
- o No

(If the answer is 'no', please go to Section II on Impact Assessments)

2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

The Committee on European Affairs ("The Committee") can hold joint meetings with the Committee on Foreign Affairs, at which they discuss the items of the programme of the imminent GAERC/CAGRE session.

3) Does your parliament scrutinise proposals from the Council for the following

a) Joint Actions?

- o Yes
- o No

b) Common Positions?

- o Yes
- o No

c) recommendations for Common Strategies?

- o Yes
- o No

Not each one separately but if they are put on the GAERC agenda Minister of Foreign Affairs briefs deputies on them as well in the framework of the general discussion about the agenda. The Minister however concentrates particularly on the priorities of the Slovak Republic set by the ministry. The Minister of Foreign Affairs reports also on the dossier of the ESDP.

4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

- Yes
- o No

Yes if put on the agenda of GAERC sessions.

5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

The priorities having been set by the Ministry for Foreign Affairs are discussed in more detail; otherwise deputies decide which points or topics are of more importance to them.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions?
- Yes
 - No¹
- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).
- 8) Does your parliament have arrangements for scrutinising civilian ESDP missions -
- a) within very short time periods?
- Yes
 - No
- b) during parliamentary recesses?

¹ During EU Affairs Scrutiny we abide by the *Constitutional law on the Cooperation between the National Council of the Slovak Republic and the Government of the Slovak Republic in the Affairs concerning the European Union*. This stipulates that for a member of the Slovak Government representing the Slovak Republic in the bodies of the European Communities and the European Union it is binding to hold a position that has been approved by the National Council of the Slovak Republic. A member of the Government of the Slovak Republic is obliged to present a draft position to the National Council of the Slovak Republic two weeks prior to the session of the Council of the European Union which can afterwards approve the draft of the position. Having this in regard deputies are not able too much intervene in the draft text of the ESDP missions since most of them are agreed upon in the earlier stage of the discussions relating to them (e.g. COPS, Relex, COREPER, etc.). The other problem we face with regard to the dossier of the CFSP is concerned with the nature of confidentiality of such documents. We are confronted with the database access problems (COREU database is accessible only at the premises of the Ministry of Foreign Affairs). In addition to that deputies are not yet authorised to be acquainted with classified documents and therefore it might cause a difficulty to discuss the issue in depth if the issue is pertaining to the classified category.

- o Yes
- No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?
- o Yes
 - o No

The specific problems concerning the nature of the dossier of the CFSP/ESDP we are confronted with are dealt with above.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?
- Yes
 - o No

Yes in case deputies are not authorised to be acquainted with classified documents (EU Certificate).

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

Not yet. The minister shall inform the Committee on the results of the GAERC sessions.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?
- o Yes
 - No
- (If the answer is 'no', please go to question 4.)*

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

Not yet discussed.

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

o Yes

- No but it is expected in the future

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

This question was not yet a special subject of discussions in the Committee on European Affairs.

But we would expect that an impact assessment be an integral part of the draft legislative proposal.

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

This question was not yet a special subject of discussions in the Committee on European Affairs.

But we can agree that the impact assessments be revised on each major amendment to the original proposal, preferably by the Commission itself.

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

This question was not yet a special subject of discussions in the Committee on European Affairs.

But we can agree with the idea of assessment of a specific group of EU legislation. The Commission can undertake such assessment based on the relevant documentation submitted by the member states.

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

This question was not yet a special subject of discussions in the Committee on European Affairs.

Slovenia - National Assembly

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

1) Does your parliament scrutinise CFSP and/or ESDP matters?

☒ Yes

☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Yes. The standard procedures set out in the Act on Cooperation between the National Assembly and the Government in EU Affairs and the EU section of the Rules of the Procedure of the National Assembly, also apply to the scrutiny of CFSP/ESDP policy proposals before the Committee on Foreign Policy.

3) Does your parliament scrutinise proposals from the Council for the following

a) Joint Actions?

☒ Yes

☐ No

b) Common Positions?

☒ Yes

☐ No

c) recommendations for Common Strategies?

☒ Yes

☐ No

4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

☒ Yes

☐ No

5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

The Act on Cooperation between the National Assembly and the Government in EU Affairs provides that the National Assembly adopts political guidelines (in the form of a declaration) for the activity of the Republic of Slovenia within the institutions of the EU in the coming year. This declaration binds both the government performing its EU activities, as well as parliament's working bodies in their scrutiny of particular EU affairs.

Under the above mentioned Act, the government has the obligation to promptly inform the National Assembly about the EU affairs under parliament's jurisdiction and report on the decisions taken and its actions in relation to such in EU institutions. The Government has to inform the National Assembly also of other documents that are relevant for the exercise of its constitutional powers and concern the political and programme aspects of the activity of the European Union.

The Government therefore informs the parliament about the decisions that are to be taken at each GAERC meeting and about government's positions towards them. The Committee on Foreign Policy does not have the power to bind the government in its positions in these cases, unless the particular matter falls under parliament's jurisdiction. However, the government has the authority to submit the proposed position to the parliament (Committee on Foreign Policy), which then formally adopts the position of the Republic of Slovenia. The government is formally bound by this decision, and is required to immediately inform the National Assembly, if it decides otherwise, because it assessed that the enforcement or full enforcement of the adopted positions would not be in favour of the Republic of Slovenia. The government has to state the circumstances that have led to such decision.

Since the National Assembly has the constitutional and statutory authority to set the national foreign policy guidelines, the government must, if a particular government position in the area of CFSP/ESDP policy derives from the guidelines, which have been defined by the parliament, submit a proposal to the parliament (Committee on Foreign Policy) and request a confirmation.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

- ☒ Yes
- ☐ No

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued;

immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

EU Integrated Rule of Law Mission for Iraq (EUJUST Lex): following a draft Joint Action being issued.

- 8) Does your parliament have arrangements for scrutinising civilian ESDP missions -
a) within very short time periods?

☒ Yes

☐ No

- b) during parliamentary recesses?

☒ Yes

☐ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

Extra (urgent) committee meetings. Usually convened before GAERC meetings, but not solely for the purpose of scrutinising civilian ESDP missions.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

☒ Yes

☐ No

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

☐ Yes

☒ No

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

No problems encountered. The government always informs the parliament about the final decisions taken at the Council of the European Union.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ No

- 2) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Preferably before it drafts a legislative proposal. Should the legislative proposal change during the legislative procedure, the Commission's task is to reassess its impact.

- 3) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Yes by the Commission.

- 4) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?
-

- 5) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

No

Slovenia - National Assembly

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

1) Does your parliament scrutinise CFSP and/or ESDP matters?

X Yes

☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Yes

3) Does your parliament scrutinise proposals from the Council for the following -

a) Joint Actions?

X Yes

☐ No

b) Common Positions?

X Yes

☐ No

c) recommendations for Common Strategies?

X Yes

☐ No

4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

X Yes

☐ No

5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government

of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

- **The National Council (or its Commission) may convey to the National Assembly (or its Committee) its opinion on all matters within the competence of the National Assembly. The International Relations and European Affairs Commission scrutinises those documents which are at the agenda of the Committee on EU Affairs and Committee on Foreign Policy of the National Assembly.**

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

☐ Yes

☒ **No**

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

8) Does your parliament have arrangements for scrutinising civilian EDSP missions -

a) within very short time periods?

☒ **Yes**

☐ No

b) during parliamentary recesses?

☒ **Yes**

☐ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

We can arrange extra meetings either of the National Council or the Commission within very short time periods.

9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

X Yes

☐ No

10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

☐ Yes

X No

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

No problems encountered.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ **No**

(If the answer is 'no', please go to question 4.)

- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?
- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)
- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

This question has not been discussed in the National Council.

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☐ Yes

☒ **No**

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)
- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the

impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?
- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

No.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

We have no suggestions.

Spain

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

☐ Yes

☒ No

(If the answer is 'no', please go to Section II on Impact Assessments)

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

☐ Yes

☒ No

(If the answer is 'no', please go to question 4.)

- 2) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

The Spanish Parliament has not expressed any views on the impact assessment produced by the Commission.

- 3) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

☐ Yes

☒ No

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

Please be aware that the Joint Commission on EU Affairs has the intention of creating a working group in order to analyse the parliamentary implications of the subsidiarity control as established in the Protocol annexed to the Constitutional Treaty.

- 4) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)
-

- 5) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?
-

- 6) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?
-

- 7) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

The Cortes have not expressed any views on the subject.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

The Joint Commission on EU Affairs has not yet forwarded a proposal in relation to the subjects to be proposed to COSAC during 2006.

Sweden

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

1) Does your parliament scrutinise CFSP and/or ESDP matters?

☒ Yes

☐ No

(If the answer is 'no', please go to Section II on Impact Assessments)

2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Yes

3) Does your parliament scrutinise proposals from the Council for the following

a) Joint Actions?

☒ Yes

☐ No

b) Common Positions?

☒ Yes

☐ No

c) recommendations for Common Strategies?

☒ Yes

☐ No

4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

☒ Yes

☐ No

5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

The pre-Council scrutiny in the Swedish Committee on EU Affairs covers all items on the agenda of every Council Meeting and furthermore also important issues decided by the Council via written procedure.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

☒ **Yes**

☐ No

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

The EU Committee has scrutinised all the above mentioned missions sometimes in full meeting with the Minister for Foreign Affairs at a stage when the Joint Action is preceded by Council conclusions and/or later in connection with the preparation for the Joint Action itself (sometimes these Joint Actions have been handled by the Committee in written procedure; there is normally a Governmental formal decision that has to be taken since Joint Actions are regarded as international agreements and the Committee has to give its mandate prior to the Government's decision.

8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

a) within very short time periods?

☒ **Yes**

☐ No

b) during parliamentary recesses?

☒ **Yes**

☐ No

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

We can within very short time periods (once within 30 minutes thanks to SMS !) arrange extra meetings either in Parliament or by telephone conference. This has been the case during the last stages of all IGC:s since our own accession IGC (then it was the task of a special Committee which was the predecessor of the EU Committee).

Regarding ESDP-missions we have normally discussed the preparation of the mission with the Minister for Foreign Affairs and/or the Minister for defence and the Committee is then able to scrutinise the sharp decision by correspondence. This arrangement has been used a couple of times each year.

- 9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

X Yes

☐ No

Even if the answer here is Yes, there are strong views in the Committee and the Secretariat on the Council procedures as such. There are often too short time-limits between Coreper and Council and this doesn't give enough time for parliamentary scrutiny.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

☐ Yes

X No

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

No problem; the scrutiny quite often is concentrated on political agreement and/or conclusions; see above.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

X Yes

☐ No

(If the answer is 'no', please go to question 4.)

-
- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

Yes in principle as part of the standard scrutiny process; the system is based on the idea that this is the task of the standing committees and the pre- and post Council scrutiny is a task for the EU Committee.

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

No special resources

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

This question has not been discussed in the Swedish Parliament_

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

o Yes

X No not specifically

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

We have not discussed these questions

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

See above

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

See above

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

No

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

We have not yet discussed these questions

United Kingdom - House of Lords

I. SCRUTINY IN NATIONAL PARLIAMENTS OF COMMON FOREIGN AND SECURITY POLICY (CFSP), INCLUDING EUROPEAN SECURITY AND DEFENCE POLICY (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

Yes

- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

A sub-committee of the House of Lords EU Select Committee (Foreign Affairs and defence, and Development Policy – Sub-Committee C) is tasked with scrutiny of CFSP/ESDP. The sub-committee operates under the same remit as the Select Committee as a whole. However, the sub-committee has found it necessary to develop scrutiny procedures to deal with the fast decision making in the Council.

Government officials maintain informal contact with the sub-committee's staff to keep the sub-committee briefed on developments on policy proposals before a formal text for a proposal is agreed. This process is at times formalised by the Minister writing to the sub-committee informing them of the state of play on a particular proposal to allow for scrutiny to be performed quickly once a formal text has been agreed.

The sub-committee for its part has found it necessary, on occasion, to conduct scrutiny by written procedure or by calling extra meetings in addition to its weekly meetings in order to be able to meet Council deadlines. (Such procedures can be used by any of the Committee's seven sub-committees for matters within their own responsibility). Written procedure involves a note being sent to all members of the sub-committee proposing a course of action (e.g. to clear a document from scrutiny or retain it) and setting a deadline for replies. Usually the form is "unless any member if the Committee objects the following action will be taken" but it is always understood that of any member wants to discuss an item at a formal meeting this must be arranged. Any decisions reached by way of written procedure are formally noted at the next meeting and recorded in the minutes at that point.

- 3) Does your parliament scrutinise proposals from the Council for the following

- a) Joint Actions? **Yes**
- b) Common Positions? **Yes**
- c) recommendations for Common Strategies? **Yes**

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)? **Yes**

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

The House of Lords EU Select Committee's remit is to consider any 'EU document' that the Government deposits in Parliament along with "other matters relating to the European Union". However, in the area of CFSP the House of Lords scrutiny reserve resolution of December 1999 only obliges the government to submit for scrutiny the types of documents outlined in question 3 (joint actions, common strategies and common positions).

This definition of depositable documents concerns the sub-committee tasked with scrutiny of CFSP and ESDP. For example the UK government did not deposit for scrutiny the Battlegroups initiative, a significant commitment agreed in Council conclusions. The sub-committee is conducting an inquiry into the depositing of such documents, with the aim of arriving at a formal understanding of the types of non-legislative documents the Government should deposit in Parliament.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

- 6) Did your parliament scrutinise any of these missions? Yes**

- 7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

The sub-committee scrutinised all of the above missions. The sub-committee aims to examine a proposal for an ESDP mission as far in advance of a Council decision as possible. To facilitate this procedure the Minister writes to the sub-committee at the stage of the fact-finding mission, if there is one.

- 8) Does your parliament have arrangements for scrutinising civilian EDSP missions -
- a) within very short time periods? **Yes**
 - b) during parliamentary recesses? **Yes**

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

The arrangements outlined in response to question 2 above were in large part developed to respond to the need to scrutinise ESDP missions fast. One extra committee meeting has been called specifically to consider an ESDP mission, while another mission was cleared from scrutiny by written procedure. On the whole, early warning by the Government of impending mission has allowed the sub-committee to consider items in time.

9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny? **Yes**

10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

This question is under consideration by the sub-committee in an on-going inquiry.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

The House of Lords EU Select Committee is concerned, across the board, about the question of political agreement, provisional agreement or agreement to a general approach which the Government may reach in the Council.

On CFSP, the Government has given assurances, as part of an on-going inquiry, that items that will be subject to political agreement will be submitted for scrutiny.

II. SCRUTINY OF THE COMMISSION'S IMPACT ASSESSMENTS:

1) Does your parliament currently scrutinise impact assessments produced by the Commission? **Yes**

2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them? **Yes**

3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

In line with the recommendations in the Committee's 2002 review of Scrutiny the Committee can draw on extra resources – e.g. the appointment of specialist advisers - to help in this work as necessary

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

In its report on the subject of ensuring effective regulation in the EU the Committee:

- **Welcomes the introduction of roadmaps and call for their use to be developed**
- **Welcomes the introduction of the revised impact assessment guidelines (issued June 15 2005) and the Commission's decision to make them publicly available.**
- **Warns that impact assessments should not merely be a 'tick-the box' exercise but should be conducted fully and in line with the guidelines issued.**
- **Concludes that the 'do-nothing' option and the achievement of aims through non-legislative means must always be considered in impact assessment.**
- **Calls for Member State initiatives and European Parliament amendments to legislation to be subject to impact assessments**
- **Recommends that MEPS should be sent one page summaries of impact assessments to enable them to get to grips with the material quickly and efficiently.**
- **Urges the Commission to stand by its pledge to adopt a common European methodology for the measurement of administrative burdens (a pilot phase is currently underway)**

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality? **Yes**

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

All of the above

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

In its report on the subject of ensuring effective regulation in the EU the Committee argues that impact assessments should be carried out by the proposer of legislation at an early stage and should be revised as legislation changes through the legislative process

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

Yes - see above: impact assessments should be revised or re-written by the European Parliament if they amend a Commission proposal substantially.

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

Yes – by the ‘proposer’ of the legislation (usually the Commission). In its Report the Committee recommends that such assessment be carried out for the first time not more than one year after the entry into force of the legislation in question.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

In its report the Committee rejects this proposal, fearing that it would lead to a duplication of resources and add another layer of unnecessary bureaucracy.

III. PROPOSALS FOR SUBJECTS TO BE DEALT WITH BY COSAC IN 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

The House of Lords proposes that COSAC might, in accordance with Article 7 of the Rules of Procedure, have an exchange of best practice in regard to:

- **methods of enabling national parliaments to assist in the engagement of citizens in the debate on EU affairs**
- **methods of scrutiny of the EC budget**
- **scrutiny of the Commission's Annual Work Programme**
- **scrutiny of how the compatibility of EU legislation with human rights legislation can be assured during the scrutiny process**
- **how national parliamentary scrutiny of EU legislation can, given the constitutional and political context of each individual Member State, take account of the role, work and views of regional assemblies, in particular regional assemblies with legislative powers, and in particular with regard to the monitoring of subsidiarity**
- **how effective scrutiny can be ensured with regard to decisions being taken in comitology committees: noting that many such decisions are highly technical and specialised but nevertheless stressing the need to ensure that politically and legally significant items are subject to proper and effective scrutiny**

- ensuring effective national parliamentary scrutiny during co-decision procedures

In addition COSAC might agree to exchange views, by way of pilot projects, on the lessons learned from scrutiny of specific legislation in all the above areas as well as in the area of regulatory impact assessment, which is the subject of an exchange of best practice at the UK COSAC.

United Kingdom - House of Commons

I. Scrutiny in national parliaments of Common Foreign and Security Policy (CFSP), including European Security and Defence Policy (ESDP):

- 1) Does your parliament scrutinise CFSP and/or ESDP matters?

Yes.

- 2) Do your standard procedures for scrutiny of EU Affairs (as set out in Chapter 1 of COSAC's 3rd biannual report) also apply to the scrutiny of CFSP/ESDP policy proposals? If not, please state what the differences are and explain how your parliament scrutinises CFSP and/or ESDP matters (e.g. which committees are involved, and what are their respective roles?).

Yes.

- 3) Does your parliament scrutinise proposals from the Council for the following

- a) Joint Actions?

Yes.

- b) Common Positions?

Yes.

- c) recommendations for Common Strategies?

Yes.

- 4) Does your parliament scrutinise CFSP or ESDP proposals beyond those covered in question 3 (e.g. conclusions or decisions of the European Council)?

Yes.

- 5) If you answered 'yes' to question 4, how does your parliament decide which such proposals to scrutinise?

For example, does your government decide which proposals (other than those mentioned in question 3) to submit to parliamentary scrutiny? Do you have a formalised agreement with your government of the type of non-legislative policy proposals that must be submitted for scrutiny? (And if so, when was it agreed and what types of proposal does it cover?)

The Committee agreed with the Government in February 2003 through an exchange of letters that it did not expect to receive documents dealing with operational arrangements. But it would expect to receive non-legislative proposals which might in the future give rise to commitments, especially as the time for scrutiny of legislative proposals is often very limited. There is a great deal of informal consultation between the Committee staff and civil servants about whether particular documents (or an Explanatory Memorandum in advance of a formal text) should be deposited or whether a Ministerial letter updating the Committee will be adequate.

Civilian ESDP operations:

Background: Civilian ESDP missions are an area of rapid growth of EU activity. The six current civilian ESDP operations are:

- *European Union Police Mission in the Former Yugoslav Republic of Macedonia (Proxima);*
- *European Union Law Mission in Georgia (EU JUST – Themis);*
- *EU Police Mission in Bosnia-Herzegovina (EUPM);*
- *EU Police Missions in Kinshasa (EUPOL Kinshasa);*
- *EU Integrated Rule of Law Mission for Iraq (EUJUST Lex);*
- *EU Mission in the DRC (EUSEC DRC).*

Such missions are sometimes agreed by the Council at short notice.

6) Did your parliament scrutinise any of these missions?

Yes; all of them.

7) If you answered 'yes' to question 6, please state which missions your parliament scrutinised, and please specify for each mission at what stage this scrutiny took place (e.g. following a draft Joint Action being issued; immediately before the Council meeting at which the Joint Action for the mission was agreed; or after agreement in the Council?).

Generally the Committee was able to scrutinise the proposal (sometimes on the basis of an Explanatory Memorandum rather than a formal text) in advance of a decision being taken by the Council. Even where this was not the case and a scrutiny reserve was overridden, as in the case of Proxima, the Government provided information to the Committee (e.g. in the form of a letter) in advance of the decision. In some cases the Committee has previously been able to scrutinise a proposal for a Fact Finding Mission (e.g. in respect of Iraq).

8) Does your parliament have arrangements for scrutinising civilian ESDP missions -

a) within very short time periods?

Yes (as for any other EU proposal). The Committee will consider such proposals (if necessary) at its Wednesday meetings provided it is possible to circulate briefing on Tuesday or (exceptionally) provide it at the meeting itself. The latter happens several times a year.

As in the case of other EU proposals, the Government can provide an Explanatory Memorandum in advance of a formal text (or any text) being available; this sets out what the Government expects to be in the proposal and the Government's view of it, and the Committee then scrutinises the proposal on the basis of this EM and can even recommend a debate on it; the Government regularly submits EMs of this type when the time available for parliamentary scrutiny would otherwise be too short. In other cases the Government send information in the form of a Ministerial letter.

b) during parliamentary recesses?

No (though the Committee could meet during recesses if it chose to).

If you answered 'yes' for either question, please specify what these procedures are (e.g. can you arrange extra committee meetings; can you reach agreement by correspondence), and state how often they have been used in practice.

9) Do the procedures of the Council on civilian ESDP operations allow adequate time for parliamentary scrutiny?

In general yes.

- 10) Has the classification by Council of documents as 'restricted' or 'confidential' proven a hindrance to parliamentary scrutiny of ESDP missions?

No. The Committee has agreed with the Department that it does not expect to have access to operationally sensitive material, and would not expect to receive documents which deal only with operational arrangements. The Committee has also suggested that the Council consider issuing separate documents where practicable, so that a document not containing operationally sensitive information could be subject to scrutiny.

Political Agreement:

Background: The Council of Ministers often reaches 'political agreement' on a CFSP or ESDP policy proposal before the legislative instrument is finalised, in which case certain details will be agreed at a later meeting, possibly after parliamentary scrutiny has been completed.

- 11) Is this a problem that your parliament has encountered? If so, what procedures or practices do you have to deal with this issue?

No, for the reasons given above.

II. Scrutiny of the Commission's Impact Assessments:

- 1) Does your parliament currently scrutinise impact assessments produced by the Commission?

Yes.

- 2) Does your parliament scrutinise Commission impact assessments as part of your standard EU scrutiny procedures (as set out in Chapter 1 of COSAC's 3rd biannual report)? If not, please state what the differences are and explain how your parliament scrutinises them?

Yes.

- 3) Do you have special resources to scrutinise impact assessments? If so, please specify what resources you use. (e.g. Does this scrutiny require additional funding? Are services outside your EU Affairs Committee involved? Do you draw on expertise from outside parliament?)

No.

- 4) What are the views of your parliament on the impact assessments produced by the Commission? Are they of practical help to your parliament's scrutiny of EU legislation? Are they adequate? If not, how do you propose that they could be improved? (e.g. What further information should they contain? What should they focus on?)

The Committee uses the Commission's impact assessments when scrutinising EU proposals, but has not considered how they could be improved. The Committee has occasionally found major differences between the impact assessments produced by the Commission and the UK Government.

- 5) Does your parliament scrutinise whether Commission proposals satisfy the principles of subsidiarity and proportionality?

Yes.

If you answered 'yes', please specify whether this is done on the basis of the Commission's Explanatory Memorandum, the Commission's Impact Assessments, an Explanatory Memorandum produced by your Government, an Impact Assessment produced by your Government, some combination of these documents, or by other means?

All of these contribute to the Committee's decisions.

- 6) In your opinion, at what stage should the Commission undertake an impact assessment on an item of legislation? (e.g. before it drafts a legislative proposal? after drafting but before adoption by the College? or should assessing the impact of legislation be an on-going process?)

Assessment of subsidiarity and proportionality should take place (and be justified) before an item appears in the Commission's Work programme. Full impact assessment should take place after drafting but before adoption by the College.

- 7) Should Commission impact assessments be revised in the light of amendments to the Commission's proposal, in order to assess the impact of amendments and better reflect the amended proposal? If so, when should such revisions be done and by whom? In particular, should the European Parliament and the Council produce impact assessments of their amendments?

As amendments can completely change the impact of a proposal, impact assessments should be produced for all amendments which change a proposal's impact, whether the amendment was proposed by the Commission, Council or European Parliament. (This would be more manageable if there were rules preventing extension of the scope of legislation after publication by the Commission.)

- 8) Should EU legislation be examined after implementation to assess its impact; and, if so, when and by whom?

The Committee has not considered this.

- 9) An argument is being put forward for the creation of a new independent advisory body to advise the EU institutions on reducing the administrative burden of legislation on businesses and citizens (perhaps along the lines of Actal in the Netherlands or the Better Regulation Task Force in the UK). Such a body could take over from the Commission the task of producing impact assessments. Does your parliament have a view on this proposal?

No.

III. Proposals for subjects to be dealt with by COSAC in 2006

Article 7.1 of the Rules of Procedure of COSAC states: "Before the last ordinary meeting of each year the delegations shall indicate the subjects they propose be dealt with the following year." The rule also states that the last ordinary COSAC meeting of the year should discuss this matter. Article 7.1A adds that the "principal business on every draft Agenda shall be derived from COSAC's role as a body for exchanging information, in particular on the practical aspects of parliamentary scrutiny." In accordance with these two rules, at the end of the XXIV COSAC meeting in London in October there will be a discussion about which topics COSAC should deal with in 2006.

In order to inform this discussion, please indicate here the subjects that your parliament proposes COSAC should deal with during 2006:

- a. methods of scrutiny of EC expenditure;**
- b. scrutiny of the Commission's Annual Work Programme;**
- c. ensuring effective national parliamentary scrutiny during co-decision;**
- d. ways of engaging citizens and organisations outside Parliament in national parliamentary scrutiny.**