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The Role of Parliament in Foreign Policy Making

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ABSTRACT: National Parliaments as part of the national system for deciding international affairs face plenty of challenges if they intend to preserve even the most essential parts of their traditional role in national decision-making when the distinction between national and international decision-making is constantly fading. This report aims to describe the present role of Parliaments in both traditional bilateral and multilateral foreign relations, in the preparation and ratification of international treaties, in the work and decision-making of international organizations and in expanding supranational decision-making. The diversity of political systems and differences between decision-making systems have an important influence on the preparation of such a report. For this reason, this paper will limit itself to a general description of systems, avoiding excessive details.

KEYWORDS: Foreign policy, Parliaments, Legislation Implementing

I. INTRODUCTION

Foreign policy has traditionally been and is still without exception a key part of the responsibilities of the Executive. In most countries, the leading role of the Executive in the field of foreign policy is clearly established in constitutional law and is supported by both legislations at the lower-level and customary practice. Parliaments' position in the system for deciding foreign policy varies as a result of differences between political systems and cultures. Parliaments have established their role in foreign policy decision-making through and as a consequence of their traditional areas of power, the dependence of governments on parliamentary support, as well as their legislative and budgetary powers. This especially applies to the ratification of international treaties and the adoption of legislation implementing them at the national level. Parliaments' means to direct and control the conduct of foreign relations have become or are becoming more diverse with the strengthening of Parliaments' general position. Growing parliamentary diplomacy has created a new and more significant level in the conduct of international relations. Regionally defined supranational forms of decision-making appear to have awakened Parliaments to increase their role in the supranational decision-making which is generally in the hands of Governments.

The role of Parliament in foreign policy decision-making:

In the preparatory phase

Parliaments do not generally play a formal role in the preparation of foreign policy matters, i.e. factual foreign policy measures and treaties. On the other hand, Parliaments generally receive the information they require with regard to foreign policy matters in the preparatory phase through the use of general parliamentary means of influence, which include discussions in advance initiated by the Government or Parliament, oral and written questions and even interpellations and the right to request documents. In most Parliaments the foreign affairs committee plays a key role in supervising matters which are in the preparatory phase. Certain countries have created formal procedures aimed at avoiding confrontation and maintaining the tradition of national consensus in foreign policy matters. Denmark, Finland, Norway, Sweden and Switzerland have such procedures, for example. According to the Danish constitution, the Government must consult with the foreign affairs committee when matters are being prepared and before any decision of major importance is taken in foreign policy matters.

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In decision-making

Decision-making power in day-to-day matters appears everywhere to be in the hands of the Executive. There are special regulations regarding Parliament's influence and the need for approval in decisions regarding war and peace, changes in national borders and allowing foreign military forces access to or transit through national territory. In connection with the signing of treaties, Parliament's role is most often connected and in many cases limited to Parliament's traditional decision-making role in the use of legislative and budgetary power and otherwise matters which come within Parliament's remit, such as treaties which in one way or another limit national sovereignty. Treaties which include significant obligations or are otherwise especially important for the country in question can also require the approval of Parliament. These are described in different terms in various countries and include, for example, treaties pertaining to membership in international organizations (e.g. Andorra, Egypt, Republic of Korea, Norway, Sweden and Switzerland). Parliament's task is most often to approve or authorize the ratification of treaties which come within its remit or, less often (e.g. Bulgaria, Germany, Greece, Romania and Slovenia) to directly decide on the ratification. On the other hand, as the treaties are presented to Parliaments after negotiations have ended and the parties have signed them. Parliaments do not have real opportunities to change the treaty text. They can either give their consent as such or with certain reservations, if reservations are permitted by the treaty itself, or refuse to give it, or return the matter to the Government for new negotiations. In addition Parliament can, as in Belgium, require that the treaty will be applied and interpreted in a specific way when it enacts legislation approving the treaty. Quite often Parliament's authorization to ratify a treaty and procedure for implementing a treaty at the national level take place in the form of legislation, although in Finland the decision to authorize the ratification of a treaty takes place in the form of a resolution. In France since the constitutional reform of 1992, the President of the Republic, the Prime Minister, as well as the President of the National Assembly, the President of the Senate, sixty deputies or sixty senators may request the Constitutional Council to declare whether an international commitment involves an arrangement contrary to the Constitution. If that is the case, parliamentary authorization of ratification can be given only after amendment of the Constitution. The US Senate's role is primarily to pass judgement on whether completed treaties should be ratified by the United States and/or if any final conditions should be set prior to ratification. As a rule decisions in treaty matters can be made by majority vote. In the Philippines and the United States, however, the Senate must approve treaties by a two-thirds majority. In Finland treaties involving a reduction in national territory as well as treaties including stipulations in conflict with constitutional law likewise require a two-thirds majority.

In some countries it is sufficient for the Government to inform Parliament of signed treaties and provide a chance for discussion (Australia, India, Israel and New Zealand). The role of the Zambian Parliament is mainly to issue a positive or negative recommendation regarding treaties. In the Netherlands the Government presents treaties to both chambers of Parliament before ratification. If Parliament does not react within a period of 30 days the treaty is agreed to by silent consent. If 15 members or more of the First Chamber or 30 members or more of the Lower House declare that the treaty needs explicit consent, then the treaty has to pass both the Houses like a bill of law. This procedure is called the "voorhang" procedure. In Australia, proposed treaty actions, including amendments or denunciations and withdrawals, are tabled in both Houses for at least 15 sitting days before the government takes binding action. This means that the texts are tabled after the treaties have been signed for Australia but before ratification. Treaty texts are tabled with a "National Interest Analysis" which provides information in support of the proposal. The Australian Parliament does not have the power to approve or disallow treaty actions, only to review and scrutinise them. The British Parliament has no formal role in treaty-making. In the normal course of events, and by convention, the so-called "Ponsonby Rule" forms the usual constitutional practice. Under this convention, any treaty subject to ratification is laid before Parliament for at least 21 days before ratification is carried out. The presumption is that time could and would be found for a debate in the House of Commons on any treaty so laid, if there was sufficient political pressure for it. The House of Lords has recently given a unanimous second reading to a bill which would subject treaties to parliamentary control following the practice adopted in Australia. In most countries denunciation of treaties falls within the powers of the Executive. However, in order to denounce a treaty to which parliamentary consent was necessary when the treaty was concluded, parliamentary approval is necessary in a few countries (Andorra, Bulgaria, Denmark, Poland, Romania, Russia, Slovenia, Spain, Sweden and the USA). In some countries Parliament can itself make initiatives regarding the denouncement of treaties (e.g. Belgium, Republic of Korea, Slovenia and Spain).

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Role of Parliament with respect to appointments and other administrative decisions with foreign policy implications:

Parliaments do not generally play a role regarding appointments in the field of foreign policy administration. As an exception to this general rule, Parliaments do have a certain role in making appointments in the field of foreign policy administration at least in Bulgaria, the Philippines, Poland, Romania, Russia, Slovenia, Uruguay and the USA. On the other hand parliaments do play a strong role everywhere in passing legislation pertaining to foreign policy administration and especially in deciding on its budget. In the Philippines the appointment of ambassadors requires the approval of a separate commission formed by members of both chambers of Congress. Before voting on the whole Government individual ministers undergo in the Polish Sejm hearings in the committees. The same applies to ambassadors and consuls (committee on foreign affairs and committee on liaison with Poles abroad). In case of the appointment of ambassadors and consuls the committees' opinion is treated as binding by the ministry of foreign affairs even though there are no formal rules in this respect. In Romania the Parliament gives its vote of confidence to the list of the government members including the foreign affairs minister. The foreign policy committees give their opinion on the proposals concerning the ambassadors of Romania to be sent abroad. According to the Russian constitution, the President of the Russian Federation appoints and recalls diplomatic representatives working in foreign states and international organizations after negotiations with the appropriate committees in chambers of the Federal Assembly. The Parliament of the Republic of Slovenia elects, appoints and discharges ministers, including the minister of foreign affairs, who must before his appointment appear before the foreign affairs committee and answer the questions put to him by the members of the committee. The foreign affairs committee of Parliament also conducts the hearing of the candidates for the ambassadors of Slovenia and gives its accord to the appointment. The Senate of the United States must confirm (approve) the appointments of all cabinet officers of the President - which include the Secretaries of State and Defense.

All Deputy Secretaries, and Undersecretaries and Assistant Secretaries of all cabinet departments of the President must likewise be confirmed by the Senate. On occasion, the President of the United States has appointed temporary advisory commissions to provide him and his administration with options on particular foreign policy issues. These commissions normally are comprised of senior executive branch officials, private sector experts, and Members of Congress. Other special arrangements worth mentioning in this connection include governmental inquiry commissions in Sweden where parliamentarians are members and which may constitute an important part of the preparatory phase of major foreign policy issues. In Finland "parliamentary committees" can be appointed to prepare major policy positions pertaining to foreign policy as well as other fields. These committees are made up either entirely or partly of MPs summoned by the Government.

Role of Parliament in controlling foreign policy

1. Parliamentary accountability

As was indicated in section III above, foreign policy decision-making systems are directed by the Government in most countries. The Government is generally accountable to Parliament for all its measures and thus for the foreign policy it conducts. In the Republic of Korea neither the head of state nor the Government is accountable to Parliament, which nevertheless can recommend changes in ministers, including the prime minister and foreign minister. Switzerland also lacks provisions on a vote of censure of the Government. The members of the Government are chosen for a fixed term and cannot legally be forced to resign. In spite of this Parliament can control the Government in many ways. In the sense of parliamentary votes of confidence, the American President is not accountable to the Congress for foreign policy decisions and actions. However, congressional approval of the expenditure of public funds allows it to increase or decrease program funding as a reflection of support or opposition to a particular policy. Cabinet officials and diplomatic representatives can be summoned to appear for congressional committees to explain and defend their foreign policy actions. An executive branch official can be impeached by a majority vote of the House of Representatives and removed from office by a two-thirds vote of the Senate for "high crimes and misdemeanors", but such actions are extraordinarily rare. The presidents of Finland, France, Poland, Russia and Zambia are not directly

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accountable to Parliament for their actions. The Governments, however, also in these countries are accountable to the elected chambers of Parliaments.

2. Role of the plenary session

Confidence between Parliament and the Government is naturally the basis for the control of all activities, including foreign policy. Several parliamentary instruments such as annual general political debates, consideration of the annual budget and other bills submitted by the Government or MPs, different reports by the Government, special sessions and debates, oral or written questions and motions of censure constitute effective means in the parliamentary control of foreign policy. In many Parliaments the opportunity to arrange special debates on timely matters outside the agenda is also an effective way to supervise foreign policy. It is worth mentioning that the government submits to the Norwegian Parliament every year all treaties which have been concluded.

3. Role of parliamentary committees

The foreign affairs committee can require the Government to submit reports on specific foreign policy issues and request related documents. The Greek Parliament, for example, can appoint special committees of inquiry for this purpose and the Italian Parliament's committees have specific investigative and supervising functions. The Israeli Government has an obligation to report to Parliament's foreign affairs and defence committee regularly. The Danish Parliament's foreign affairs committee has traditionally been able to submit oral questions to the Government, but recently practice has been altered so that written questions can also be presented. The US Congress has no procedure for parliamentary questions and interpellations. The principal forum for directing questions to administration officials is at committee hearings held by one or more of the foreign policy related committees of the House and Senate. To understand the crucial role of the committees of the House and Senate both in the legislative process and in the control of foreign policy, the following should be noted. Committees in the House and Senate are given independent operating budgets with which to employ staff, to travel to domestic or international destinations, and to otherwise cover operational costs. Each committee in the House and Senate typically employs 50 or more staff to provide to committee members specialized analyses for pending legislation and for program review. Committees may also use the services of congressional support agencies in reviewing foreign policy priorities.

II. CONCLUSION

Owing to the confidentiality generally associated with foreign policy matters, parliamentary control of foreign policy is in a large number of Parliaments mainly in the hands of the foreign affairs committee (e.g. Andorra, Denmark, Ireland, Israel, Italy and the USA). Thus the Parliament is able to control that the government has not on its own concluded a treaty without having submitted it to the Parliament for its consent in cases where parliamentary approval would have been required.

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