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Peaceful legislatures? Parliaments and military interventions after the Cold War: Insights from Germany and Italy

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# Peaceful legislatures? Parliaments and military interventions after the Cold War: Insights from Germany and Italy

## Abstract

The article contributes to the growing debate on parliamentary war powers and shows how parliaments matter in shaping both force deployment and force employment. Through original analysis of the Italian and German decision-making on military interventions after the Cold War, the article illustrates how formal and informal constraints shape the opportunity structures faced by executives that are willing to undertake military interventions. Revisiting, and building on, the great deal of research recently emerged on institutional constraints to the use of force, the article details the types of costs – namely, transaction and audience costs – linked to involvement of legislatives in the decision-making and provides empirical support for theories based on parliamentary war powers, adding new dimensions of analysis.

## Keywords

defense policy, Germany, Italy, military interventions, parliament

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Do parliaments matter in explaining decisions over force deployment? The debate is lively well outside academic circles. Famous cases seem to show that parliaments are quite ineffective in shaping deployment decisions: most contemporary wars do not go through formal declarations and the use of force has been often single-handedly authorized by executives, with legislatures voting only after deployments actually occurred, facing a *fait accompli*. The US Congress was not consulted when President Johnson escalated the war in Vietnam.<sup>1</sup> More recent French deployments in Mali (2013) and Syria (2014) were undertaken as urgent measures (Presidential orders), with the executive consulting the *Assemblée Nationale* ex post. In 2018, members of the French parliamentary body were still questioning the right of the executive to conduct airstrikes against Daesh without formally getting a parliamentary vote.<sup>2</sup>

Other cases seem to show that, on the contrary, legislative bodies can be relevant in affecting force deployment: in 1973, the US Congress took over war powers mandating a disengagement from Vietnam and then expanding congressional oversight on war-related activities (such as arms shipments) and intelligence operations.<sup>3</sup> In the United Kingdom, the involvement of the House of Commons was decisive in constraining the then Prime Minister David Cameron not to act forcefully against Syrian President Assad after an alleged use of chemical weapons against civilians.<sup>4</sup> While the question of how domestic institutions influence foreign

and defense policy-making is a classic theme in International Relations (IR) theory, the role of parliaments has until recently been largely overlooked.

This article contributes to the literature on 'parliamentary war powers'<sup>5</sup> showing that parliaments can affect the propensity to undertake military interventions abroad (force deployment) due to the existence of formal and informal procedures that constrain executive action. The article also stresses that parliamentary constraints affect *how* military operations are conducted (force employment).<sup>6</sup> Parliamentary constraints – which can be interpreted in terms of transaction and audience costs – are not the motive for intervention or non-intervention, but they look in most cases as an important permissive condition. In other words, we don't argue that these costs are the only causal factor explaining the decision to intervene, but we make three claims relative to how *parliaments matter*.

First, parliaments do matter in shaping the opportunity structure of the decision of executives to intervene. Facing stricter parliamentary scrutiny, executives will have more hurdles to get over if willing to intervene. Requirements of alliances can lead to overcome these obstacles,<sup>7</sup> as do powerful motives to intervene that affect public opinion,<sup>8</sup> such as in the case of the Afghanistan intervention after 9/11. As stressed by an increasing body of literature, political parties' preferences have an important impact as well on the decision to intervene.<sup>9</sup> Second, parliaments that closely monitor the use of forces once missions are in place are able to deeply affect how military operations are conducted, from troop levels to rules of engagement (RoE). Third, this article offers a more fine-grained view of how both formal and *informal* parliamentary constraints<sup>10</sup> influence force deployment and employment, going beyond the important medium-N studies on legislatures and defense policy that could not take into account informal procedures.<sup>11</sup>

The argument is supported through empirical analysis of two cases that have been rarely (if ever) treated together: Germany and Italy. Looking at the decision to intervene and the implementation of interventions after the Cold War, we show how different types of parliamentary involvement led in different cases to the restriction of freedom of action for executives. We illustrate how different degrees of parliaments' involvement contribute to explain the different types of activities undertaken. For instance, an overview of parliamentary involvement in monitoring the missions in Afghanistan shows how the Italian executive could act in a less restrained way than the German one, when modifying troop levels or modes of action on the ground.

The empirical section draws on original sources: the article relies on interviews and conversations conducted in 2013–2018 with military personnel, politicians (MPs), and experts and on the analysis of strategic documents and parliamentary debates.

The article proceeds as follows. The next section reviews existing theories, with a focus on scholarship that has focused on Germany and Italy. Then, the article examines the literature on 'parliamentary war powers'<sup>12</sup> and discusses the types of costs that the executives face when dealing with the legislature. After a brief illustration of the parliamentary powers in Italy and Germany, the ensuing sections detail crucial turning points in the evolution of their military operations, from the end of the Cold War to the Libya intervention in 2011. Conclusions summarize the key arguments and offer an interpretation of their implications for the future development of German and Italian defense policy.

### **Do parliaments matter?**

The article aims to contribute to the existing literature on 'parliamentary war powers' by answering the following question: Do parliaments matter in explaining decisions over force deployment? Starting with studies on the link between domestic structures and foreign policy<sup>13</sup> and accelerating with the addition of democracy peace theory,<sup>14</sup> a huge body of research exploring how different national institutional arrangements produce variation in foreign and defense policy-making has now emerged.<sup>15</sup> Analysis of the foreign policy behavior of European states after the end of the Cold War forms a large part of this

literature.<sup>16</sup> A recent element of debate here is related to if, and how, parliaments do matter in shaping interventions. Realism-inspired literature naturally tended to discount such a role, although authors drawing from the 'neoclassical realism' strand have emphasized the intervening role of domestic power relations.<sup>17</sup> Even some of the most compelling accounts attempting to explain force deployment have tended to emphasize the role of public opinion, political parties' preferences, or strategic culture rather than domestic institutions.

First, electoral incentives have been long at the forefront of attention, with scholars showing how politicians' decisions in different foreign policy-related domains have been linked to calculations and perceptions of their electoral effects and, more broadly, to political survival.<sup>18</sup> Recent analyses have challenged early Cold War studies that granted limited influence to public opinion, recognizing the myriad ways in which public preferences have in fact shaped foreign policy behavior.<sup>19</sup> We might surmise that differing patterns of intervention after the Cold War are due to different public preferences for intervention, with US and UK public opinion being most supportive of military action abroad.<sup>20</sup> Yet, Italy and Germany show very similar patterns of public support for military action.<sup>21</sup> Second, political parties and their preferences have also come to the fore. Several scholars<sup>22</sup> have stressed the crucial role played by party ideology in explaining the diverse propensity to intervene militarily. Recent analyses<sup>23</sup> have illustrated the ways through which parties in post-Cold War German and Italian parliaments have supported military operations abroad. Third, strategic culture has also been identified as a driver of the propensity to intervene. Existing studies on Germany have often compared it to France and the United Kingdom,<sup>24</sup> placing the burden of explanation on variables linked to strategic culture. Several studies have argued that cultural constraints on the use of military force largely explain the country's minimal military footprint.<sup>25</sup> French and British strategic cultures, on the contrary, are said to have fostered more dynamic defense politics.

All these strands of research tended to minimize the impact of national institutional arrangements on decision-making over military interventions. In the past few years, there has been increased attention to how parliaments can, on the contrary, have an important weight on influence such decisions. Proponents of the so-called 'parliamentary peace' have been arguing that it is essential to 'unpack' democracy and look at how decision-making institutions in the security domain (starting with executives and legislatures) effectively function.<sup>26</sup> Looking at the decision to intervene in the 2003 Iraq War, Dieterich et al. find that 'high parliamentary war powers are associated with reduced war involvement'.<sup>27</sup> The role of parliaments is not, however, undisputed or exclusive. Discussing military deployments of democracies after the Cold War, Mello finds that parliamentary veto rights only help in providing a 'mixed picture'.<sup>28</sup> Wagner stressed how countries are more likely to participate in missions when these are framed as cases of 'alliance solidarity'.<sup>29</sup> This would imply that requests from allies can overtake domestic (parliamentary) constraints and lead to interventions. Other studies have also mentioned that parliamentary scrutiny matters when associated with widespread popular dissent over an intervention.<sup>30</sup>

Further attention can be given to two aspects in particular. First, as recognized by Raunio and Wagner, the effects of parliamentary involvement require additional examination because the existing empirical evidence is unclear.<sup>31</sup> With few exceptions,<sup>32</sup> there has been scarce interest in *how* parliaments oversee deployments (i.e. the nature of legislative involvement and the ways operations have been influenced on the ground). Yet, 'parliaments have the power not only to authorize such missions but also to set or oversee their mandates, their operational aspects, and their termination'.<sup>33</sup> Mello highlights how parliamentary involvement 'also led to the creation of extensive caveats of which the operational restrictions in the mandates and formal notes are only the publicly available information'.<sup>34</sup>

Second, scholars recognize the need to go beyond 'the traditional focus on formal powers and parliamentary veto rights',<sup>35</sup> investigating the 'capacity of the legislature to exercise formal and constitutional powers in an effective and meaningful way in practice'.<sup>36</sup> As summarized by Mello and Peters, there is the growing need to better focus on 'informal sources of parliamentary influence' on security policy, and to provide 'a

systematic analysis of the effects of parliamentary involvement'.<sup>37</sup> Specific attention should be devoted to the supposed consequences of established 'parliamentary practices' in the field of procedures for approving military deployment. As pointed out by Mello and Lagassé, 'future research is therefore warranted to see whether parliamentary debate and deliberation are different when a legislature is not directly involved in deployment decisions'.<sup>38</sup> Below, we show how these types of advances can benefit from a reframing of the role of parliaments in terms of costs that affect the opportunity structure of decision-makers.

### **Parliamentary constraints as costs**

Classic works on democratic peace generally took it for granted that the executive was the principal decision-maker in foreign and defense policy. This conventional wisdom has been challenged by a wave of recent studies on the parliamentary control of military operations, forming a new subfield within the democratic peace literature.<sup>39</sup> Indeed, after the end of the bipolar era parliaments have become increasingly involved in matters of defense and security policy. The emerging literature on parliamentary war powers<sup>40</sup> shows that there is a relevant variation in parliamentary control of post-Cold War military activism, from complete exclusion to veto power. Scholars have investigated in detail the factors that allow parliaments to exercise influence over the executive, overseeing armed forces and defense policy.<sup>41</sup> Within the broader discussion on legislative/executive relations, the literature has emphasized how the level of autonomy granted to the executive varies according to the features of the political system and a state's international context.<sup>42</sup>

Existing studies on the topic often distinguish between broad types of executive–legislative arrangements. Mello, drawing on Tsebelis' theory of veto players and earlier attempts<sup>43</sup> to integrate analysis of how legislatures affect defense policy-making, offers insights into how 'parliamentary veto rights' have influenced democracies' choices regarding intervention in Kosovo, Afghanistan, and Iraq.<sup>44</sup> Peters and Wagner highlight how parliamentary control, with all the advantages regarding the democratic legitimacy of military missions, might also have negative consequences in terms of efficiency, by slowing decision-making.<sup>45</sup> Likewise, Auerswald and Saideman illustrate how tighter parliamentary oversight results in an increased number of national caveats and restrictions within multilateral operations, influencing efficiency and effectiveness of the intervention.<sup>46</sup> Wagner confirms how parliamentary war powers have a tangible impact on government policy, stressing also the role played by the character of the military mission in question.<sup>47</sup> Procedural and operational limitations also deeply restrict force employment.<sup>48</sup> To contribute to this debate, we specify the major costs that executives face when they decide on military deployment and force employment and then observe how this offers insights in the cases of Germany and Italy.

Two major types of costs affect executives' decision-making. The first type is transaction costs, which cabinets incur when they refer policy decisions to parliaments, resulting invariably in a more complex and slow procedural path.<sup>49</sup> Activism in the international arena can be a sound strategy for political entrepreneurs seeking to increase their resources in the national arena,<sup>50</sup> but whatever aims actors have the key difference resides in the different costs of coordinating and carrying out actions. The core of the argument, in other words, is not the different political preferences between different institutional actors, as on their different natures. As highlighted by studies on US Congress, for instance, executives have superior informational resources, and can act more rapidly because of their very institutional setup and 'executive' control over the very tools of action (the military to begin with).<sup>51</sup> On the one hand, executives have limited 'need to build consensus'<sup>52</sup> while legislatures have a larger number of veto players and higher heterogeneity of preferences.<sup>53</sup> On the other hand, the executives have direct functional control of the military. They can deploy rapidly because of the emergency inherent with a crisis situation. When they then ask for parliamentary approval, the parliament is often in the uneasy situation of discussing the status of troops that are fighting or are in a dangerous situation, with the consequence that critical debate can be inhibited.<sup>54</sup> Coalition politics can play such an inhibiting role.<sup>55</sup> Cabinet leaders prefer avoiding the risks associated with parliamentary scrutiny, which might compel them to make side-payments to minorities to gather consent. This is also the case when political parties are internally fragmented and multiple positions

on key issues such as the use of force are present. Eluding formal parliamentary scrutiny might allow minorities within parties (or coalitions) the possibility of publicly expressing their dissent while not endangering without incurring the costs associated with voting.<sup>56</sup> Ambiguity in procedures can thus permit heterogeneous coalitions to survive. As Mintz and Geva have illustrated, decision-makers tend in fact to reject alternatives that may hurt them politically, such as those that threaten the parliamentary majority.<sup>57</sup> More recently, Brummer and Oppermann have emphasized the importance of political calculations in foreign policy decision-making and the incentives for the executives to avoid votes on divisive foreign policy issues that pose the survival of the governing coalition at risks.<sup>58</sup>

Second, referring matters to parliament increases public attention, incurring higher audience costs.<sup>59</sup> The audience costs model-directed democratic peace scholars to focus on crisis bargaining and crisis outcomes.<sup>60</sup> When a crisis takes place in public, governments may have to pay domestic political costs in cases of foreign policy failure. Where broad parliamentary support is absent, the executive may fear reprisals at the next election.<sup>61</sup> Moreover, thorough parliamentary discussions about military interventions allow for wide scrutiny of how deployment of armed forces will unfold, as parliaments have a fundamental function in communicating 'between those who decide and those who are affected by decisions'.<sup>62</sup> The 'clarity of responsibility' argument 'rests primarily on the ability of parties to effectively avoid blame for bad outcomes associated with riskier policies',<sup>63</sup> such as military operations. Bypassing public debates allows (to an extent) escaping audience costs and attribution of responsibility. Parliamentary scrutiny creates the possibility of contestation,<sup>64</sup> reasonably enhancing the perceived domestic costs and thus explains why they stay away from parliamentary debates on the use of military force as 'anticipatory forms of blame avoidance'.<sup>65</sup> Mello stresses how an *ex ante veto* can influence decision-making as leaders must consider the audience costs they will face in exercising it.<sup>66</sup> If parliamentary requirements contribute to consensual cross-party parliamentary support for deployments, voters will be less able to attribute decisions to specific political actors.<sup>67</sup> The consequence is that when parliamentary scrutiny does not occur, everyone will resort to symbolic politics, decoupling rhetoric from consequences.<sup>68</sup>

### **Parliamentary veto power in Germany and Italy: the evolving legal context**

Germany is generally considered a case of 'tight' parliamentary control with the *Bundestag* widely seen as the 'world champion in parliamentary control of military missions'.<sup>69</sup> The German Basic Law (*Grundgesetz*) defines the *Bundeswehr* primarily as a defense force (article 87). The Federal Constitutional Court's landmark decision of 12 July 1994 removed the legal obstacles for 'out of area' engagement.<sup>70</sup> At the same time the Court cautioned that the executive must secure parliamentary approval before any troop deployment abroad. The constitutional mandate of the *Bundestag* is to oversee expeditionary troop deployments, controlling also RoE and caveats. 'According to the Court decision, the *Bundeswehr* is a "parliamentary army" whose deployment abroad requires a constitutive *Bundestag* decision'.<sup>71</sup> Thus, in the case of Germany all operational issues have faced parliamentary scrutiny. During military operations, as for instance occurred in Afghanistan, the *Bundestag* Defense Commission met weekly with the Minister of Defense to be briefed. The *Bundestag* has significant investigative powers: the Defense Commission has more rights than other parliamentary committees,<sup>72</sup> and the Parliamentary Commissioner for the Armed Forces<sup>73</sup> exercises control and monitoring under his remit of assisting the *Bundestag* in exercising parliamentary oversight and meet regularly with elected officials. Finally, and differently from Italy, parliamentary minorities can directly ask for the Constitutional Court interventions over executive action.

Italy is a more ambiguous case and there is 'no consensus' on Italian parliamentary war powers.<sup>74</sup> A few studies consider Italy to have rigid parliamentary control.<sup>75</sup> However, most scholars emphasize weak parliamentary veto rights, stressing how in Italy parliamentary competences are 'far from being clear-cut'.<sup>76</sup> Ex ante approval of military operations by the Italian parliament in the post-WWII period has been infrequent: the legislature 'did not intervene at all in 30 out of 124 cases'.<sup>77</sup> Parliamentary approval was received prior to deployment of the operation for 49 missions, at the same time of deployment for 11, and

after deployment for 34.<sup>78</sup> Italy only adopted a comprehensive law on military missions in December 2016 (law 145), defining in detail the kind of parliamentary involvement and the types of missions allowed.<sup>79</sup>

Prior to this law, the most important change occurred in 2001 with through the ‘Ruffino Resolution’ (7-01007, 2001) that introduced the practice of voting on the (re)financing of the missions. Through legal decrees the government informs the parliament of *all* the military missions abroad (presenting them all together every six months or annually) and the parliament acquired a formal veto. De facto, parliamentary oversight remained limited because the legal decree did not provide details on the financing, RoE, and nature of cooperation with allies of individual operations and it was difficult to vote against one mission, as this would stop funding for all missions.<sup>80</sup> Sometimes the approval of the law (which transformed the legal decree) on a new mission occurred *after* the beginning of operations. In sum, before 2016, the Italian parliament did not have ex ante formal veto power for troops deployments.

### Parliaments and operations after the Cold War: from Iraq to the Balkans

In this section, we show empirically how ‘parliaments make difference’, enhancing (Germany) or limiting (Italy) transaction and audience costs. [Table 1](#) summarizes force deployment and force employment of the countries in major missions from 1990.<sup>81</sup>

**Table 1.** Missions after the Cold War.

Mission	Italy		Germany	
	Deployment	Employment	Deployment	Employment
Iraq 1990/1991	✓	Airstrikes	X	
Somalia 1992/1994	✓	Peacekeeping	✓	Humanitarian aid, Logistical support, Navy
Bosnia 1995–. . .	✓	Peacekeeping	✓	Peacekeeping
Albania 1997	✓	Peacekeeping (lead country)	X	
Kosovo 1999	✓	Airstrikes	✓	Airstrikes
Afghanistan	✓	Combat troops	✓	Peacekeeping
Iraq 2003/2006	✓		X	
Lebanon 2006	✓	Peacekeeping (lead country)	✓	Logistical support, Navy
Libya 2011	✓	Airstrikes	X	

Germany only contributed financially to Desert Storm, providing DM18 billion to help defray the costs of its allies’ deployments and intervened after the war in low-scale humanitarian and mine-clearing operations.<sup>82</sup> On the contrary, Italy warplanes were involved in ‘more than 200 air strikes over Iraq’.<sup>83</sup> The attitude of the German leadership was closely linked to the presence of institutional constraints. According to Berenskoetter and Giegerich, ‘domestic constitutional constraints restricted the German security space to “NATO territory”’.<sup>84</sup> Only in 1994 did the German Federal Constitutional Court modify its interpretation toward the Basic Law, which for decades hindered deployment of German troops abroad. The Parliament in 1990 still supported such a view, despite the significant pressure from allies (such as the United States)<sup>85</sup> to intervene: ‘At the time of the Gulf War there was resistance [*in the Bundestag*] toward a shift to a more participatory contribution that went beyond Germany’s traditional role of paymaster’.<sup>86</sup> Indeed, during Desert Storm German defense and foreign policy remained anchored to *Friedenspolitik* (‘peace policy’). Public opinion in both countries was generally tepid toward military involvement.<sup>87</sup> Looking at party



preferences, the German cabinet was not less keen on intervening than the Italian one. German Foreign Minister Genscher (representing the minor ally in the government's coalition, FDP) and Defense Minister Stoltenberg (of the major partner, CDU) 'agreed that Germany had significant interests in the Gulf region that were threatened by the Iraqi aggression'.<sup>88</sup> This was linked to the cabinet's perception that saying 'no' to an American request during the country's reunification would have been problematic. However, domestic institutional constraints 'triumphed over international opportunities' and pressures.<sup>89</sup> There was a 'harsh debate in the Bundestag'<sup>90</sup> concerning the possible German involvement while Kohl, who 'wanted to show visibly its political support for its partners' war against Saddam',<sup>91</sup> preferred to avoid additional public discussion and its related costs, emphasizing the need for a constitutional amendment to participate in the operation. Longhurst stresses how Kohl, 'having concluded alongside its coalition partner that the Basic Law did not permit such a contribution', presided over 'less sensational moves, including the sending of mine-sweepers'.<sup>92</sup> Kohl was aware that specifically '*due to the domestic debate* there was no chance to provide Tornado-Aircraft for the bombing of targets'.<sup>93</sup>

The Italian cabinet was at the beginning uncertain over the intervention. The *Democrazia Cristiana* (DC) and its leader, PM Giulio Andreotti, were conscious of the Catholic Church's opposition to military action. Within the DC, 10 MPs abstained during the vote for the mission. The opposition in parliament, represented primarily by the Italian Communist Party (PCI) had been strongly campaigning against war and was very vocal in parliament (and outside) on the need to find.<sup>94</sup> However, in August 1990, the PCI abstained on the Italian naval operation aimed at supporting the embargo against the Iraqi regime.<sup>95</sup> As later recognized by the then communist MP Massimo D'Alema,<sup>96</sup> the PCI (and even several MPs of the majority coalition)<sup>97</sup> contrasted a military solution to the crisis, praising for a diplomatic compromise. Accordingly, the narrative embraced by the executive was deeply based on a 'diplomatic and peace frames'<sup>98</sup> to avoid additional criticism by the opposition and limiting the 'military exposure' of the operation. The government adopted crucial decisions (such as the concession of bases to the US forces) eluding a parliamentary scrutiny that would have raised the above-mentioned criticism, negatively affecting the initial support to the operation and enhancing audience costs.<sup>99</sup>

In Italy, constitutional rules constraining out-of-area engagement exist, but they were bypassed as Desert Storm was officially labeled as a police operation,<sup>100</sup> stretching the frame of a 'peace mission' in a way that would characterize future Italian interventions. At that time, this move also sidestepped the tricky implications of declaring a 'state of war' (articles 52, 78 and 87 of the Constitution), as requested by the Italian Communist Party, whose MPs emphasized the attempt made by the executive to avoid a specific parliamentary vote of the 'state of war' specifically thanks to the term 'international police'.<sup>101</sup> The Italian Constitution permits armed force only for defense purposes. Article 11 – which 'prohibits war' – nevertheless, also provides a subsidiary exclusion for 'limitations of sovereignty that may be necessary to support a world order to ensure peace and justice among the Nations'. This effectively authorizes participation in international missions to that end. As stated by Andreotti: 'Our main concern is the respect of international law [. . .] We focus on the second part of article 11 of the Constitution, and in line with that we do not invoke a state of war (art 72)'.<sup>102</sup> Such constant reference made by the Italian executive to international organizations has been connected, since Desert Storm onwards, to the common criticism of 'backing decisions already taken at international level',<sup>103</sup> a move aimed also at reducing attribution of responsibility for the national executives.

The Gulf War case highlights that parliaments mattered, though in different ways. The Italian cabinet avoided as much as possible parliamentary debates and votes, limiting blames and escaping audience costs and attribution of responsibility. As illustrated above, since August 1990 to January–February 1991, the government aimed to elude parliamentary scrutiny for several decisions adopted (e.g. concession of bases, deployment of military assets), eschewing policy contestation in the assembly.

In the 1990s, German deployments were always 'subject to close scrutiny in Parliament',<sup>104</sup> while for Italian ones the legal procedure for declaring a 'state of war' was never applied, and parliamentary oversight has been very limited.<sup>105</sup>

During the crises in the Balkans in the 1990s,<sup>106</sup> both Italy and Germany participated in peacekeeping operations in Bosnia, with full parliamentary support. In Kosovo (1999), German defense policy openly shifted toward concrete involvement in combat operations. However, Germany played only a 'support role'.<sup>107</sup> To justify the intervention, the German government tried to balance pacifist principles with the expectations of key allies 'to prevent a humanitarian catastrophe'.<sup>108</sup> A new narrative, reflected in Minister Fisher's refrain 'never again Auschwitz', was adopted to legitimate the military operation, perceived as a tool to protect civilian populations and avoid 'a second Srebrenica'.<sup>109</sup> German public opinion was also favorable to intervention – 60 percent supporting<sup>110</sup> – much more so than in Italy, where 38 percent was in favor of the mission.<sup>111</sup> It took 'an enormous amount of political capital to convince the public', and 'even more effort to obtain a majority for military action' from the Greens.<sup>112</sup> Indeed, the government was *forced* to discuss the operation several times in the *Bundestag*, confronting the relevant opposition of 'pacifists' (among the Greens and the leftist MPs)<sup>113</sup> who complained particularly about the lack of a UN resolution.<sup>114</sup> While parliamentary oversight was continuous, the military involvement was rather limited – some 14 Tornado planes, mainly for electronic reconnaissance and countermeasures against enemy air defense.<sup>115</sup>

The (significant) Italian involvement in air strikes in Kosovo was approved by the parliament only several weeks *after* the beginning of the war, allowing the centre-left coalition government to overcome internal opposition on the operation. In fact, the parliamentary vote on Operation Allied Force – the military side of the Italian contribution – was effectively coupled with the vote on Operation Allied Harbour – its subsequent humanitarian side, which was launched a couple of months *after* the beginning of the air strikes. Thus, the mission in Kosovo represented continuity in Italian executives' avoiding parliamentary scrutiny and its costs. Also, in 1999 the government crafted the term 'integrated defense'<sup>116</sup> to define national military intervention in line with the attempts made by Italian leaders to completely remove the notion of 'war' from the political debate, adopting the (bipartisan) rhetoric of 'peace missions'. As occurred in 1991, this was instrumental in avoiding an explicit vote from the parliament. Indeed, the D'Alema cabinet was supported by leftist parties (the Greens and the Party of Italian Communists – PdCI) that were against the military intervention and, consequently, a vote on the intervention would have been extremely risky for the stability of the majority coalition. As recognized by the then Prime Minister D'Alema,<sup>117</sup> the junior parties of the centre-left coalition openly expressed their opposition to the mission against Yugoslavia, posing several 'red lines' to the government regarding the military behavior of the Italian forces.<sup>118</sup> According to a resolution adopted by the Council of Ministers several months *before* the crisis, in 'the current context, the contribution provided by the Italian armed forces will be limited to the activities of integrated defense of national territory. A different kind of involvement of armed forces *should be authorized by the parliament*'.<sup>119</sup> Indeed, the parliament was 'not informed of the air strikes'<sup>120</sup> beforehand and it played a role only a posteriori.<sup>121</sup> As highlighted by the then Undersecretary Marco Minniti, 'Italian warplanes were already involved in action',<sup>122</sup> while the executive kept strategically silent on the operation.

As well-illustrated by recent analyses<sup>123</sup> on Italian decision-making process at the time of the Operation Allied Force, the lack of parliamentary oversight fostered the executive's capability to approve air strikes despite the opposition by junior parties of the majority coalition, which only adopted general resolutions<sup>124</sup> to support diplomatic initiatives and even to stop the raids. However, despite their strong disapproval to the eventual air strikes was expressed since the very beginning of the crisis,<sup>125</sup> these parties did not have parliamentary occasions to formally vote on the operation. Despite the new Law 25/1997 establishing that parliamentary approval was needed for undertaking military operations, the need to request a formal vote was disregarded by the following cabinets. As illustrated by the former Prime Minister Prodi, the government 'has decided' to ask a clear mandate to the parliament. Thus, according to such view, the executive was not

obliged to obtain the support from the legislative.<sup>126</sup> This represents a first type of informal practice, related to the actual interpretation of an existing norm.

For instance, in 1999 the parliament was again presented with a *fait accompli*, and the executive was 'free' to conduct air strikes without obtaining an *ex ante* authorization or even 'a clear mandate'.<sup>127</sup> In sum, the absence of a vote over the contested air strikes allowed avoiding a parliamentary confrontation with reluctant junior parties of the coalition on the military nature of the mission.

### **Constraints and military missions in the new century: Afghanistan, Iraq, and Libya**

The concept of a 'parliamentary army' designed by the German Federal Constitutional Court 'attempts to strike a balance between executive effectiveness and parliamentary participation'.<sup>128</sup> The new Court's decision of 2008 (related to the presence of NATO AWACS in Turkey) confirmed the need for an authorization of the *Bundestag* even for that type of mission, noting that 'the right of Parliament to consent to the deployments of German armed forces that acquired a military character in the course of their deployment'.<sup>129</sup> Therefore, while the military involvement of the *Bundeswehr* has increased in the new century, parliamentary control has also been enhanced.

The complexity of undertaking key security decisions in the coalition-oriented German parliamentary tradition bears highlighting. The bill authorizing the *Bundeswehr* deployment in Afghanistan passed after the Chancellor had presented and won a vote of confidence (*Vertrauensfrage*).<sup>130</sup> Commonplace in Italy, votes of confidence are an extremely rare event in Germany. That Chancellor Schroeder secured a 'narrow Bundestag approval'<sup>131</sup> in the *Vertrauensfrage*, confronting the resistance to a German military involvement in Afghanistan within his majority coalition. 'Given the gravity of the issues and his own weak domestic position, Schroeder saw it as crucial to get the backing of his own coalition'<sup>132</sup> and sought to force reluctant MPs to support the motion by linking it to a vote of confidence.<sup>133</sup> However, despite their positive vote, the parliamentary debate on the mission allowed over 70 MPs who had expressed criticism toward the mission to add a 'written explanation, mainly to qualify that they had substantial doubts about the military deployment'.<sup>134</sup> On the whole, a *continuous* involvement of the parliamentary oversight enhanced audience and transaction costs for the executive, posing clear caveats to the armed forces, which were not involved in open combat activities. After a 2001 *Bundestag* vote and the first troops had arrived in Kabul, the German forces were deployed beyond the capital in 2003 (thanks to another parliamentary act). Thus, a relevant change in the mission had to be formally approved by the *Bundestag*. In 2007 the Government decided to expand its military presence in Afghanistan,<sup>135</sup> after a NATO request, to provide six Tornados in Mazar-i-Sharif to support surveillance operations.<sup>136</sup> The parliament also voted on this decision as it did in October 2008 to extend the mandate of the *Bundeswehr* deployment. Patzelt has reconstructed the required negotiations and compromises on military issues between the government and the 'even small groups of deputies' who had a great bargaining power.<sup>137</sup> Moreover, parliamentary debates on operations provided excellent occasions of visibility for leaders of leftist parties, such as Lafontaine and Gysi, 'who rarely missed an opportunity to boisterously accuse the government' regarding its foreign policy in Afghanistan'.<sup>138</sup>

As said, *constant* debates on the features of missions have produced audience costs for German leaders, also directly influencing the ways operations have been undertaken. Indeed, a German officer revealed that the Minister of Defense created 'specific instructions' for troops on the ground 'in anticipation' of the parliamentary debate.<sup>139</sup> Germany also 'redefined' the role of the *Bundestag* through the Parliamentary Participation Act in December 2004, which provides the definition of the 'deployment of the *Bundeswehr*' as the expected involvement of German soldiers in armed operations, while relief operations and humanitarian aid do not require parliamentary consent.<sup>140</sup> The German parliament keeps formal power of consenting, constraining, and withdrawing the deployment of troops abroad. The executive should present a detailed motion on aims and tasks of the mission, the context and legal basis of the intervention, the scheduled

duration of the operation, and its foreseeable costs. In addition, any changes to the mission require renewed consent by the *Bundestag*.

The Italian intervention in Afghanistan was characterized by a very different process. Parliamentary debates occurred almost always only in the cases of re-financing of the mission and after some dramatic events (such as the death of soldiers).<sup>141</sup> Italian MPs expressed several times a shared criticism toward the 'lack of time devoted to the operation in Afghanistan',<sup>142</sup> as well as the urgent need of a comprehensive law on operations abroad, combining 'financial *and* political aspects'.<sup>143</sup> The existing approval of a pre-existing legal decree was considered a sort of accounting assessment, 'emptying'<sup>144</sup> the role of the parliament, which 'lost its centrality'.<sup>145</sup> Moreover, Italian MPs (in contrast to their German colleagues) had a limited chance to express their vote after relevant changes in the mandate or in the structure of the missions. As polemically reported by MP Di Stanislao in 2011, 'Is the mission in Afghanistan the same we had originally approved?'<sup>146</sup> A useful example of executive–legislative relations is provided by the debate over the decision to arm the Italian Tornados with bombs. As the former Minister of Defense La Russa said, 'Despite there being no need of a vote of the parliament, I decided to talk about that [*arming the warplanes*] before the chambers'.<sup>147</sup> The Minister affirmed that in the past he had been against such an approach to avoid 'destroying the parliamentary consensus on the mission'.<sup>148</sup> He had changed his mind because of shifting circumstances on the ground that prioritized following the advice 'suggested by the military'.<sup>149</sup> Two main implications emerge from this statement. The first relates to executive autonomy. As in the cases of Albania and Kosovo discussed above, the statement implies that no obligation exists on the government to refer to the parliament to discuss the relevant tactical (and strategic). Rather, another type of *informal* practice emerged here: the yearly vote on the financing (or re-financing) of all missions gave the parliament only a limited possibility to really monitor the single operations and rather allowed the parliament to express just an overall mandate, but not strict monitoring, on military missions. The second speaks of audience costs. Avoiding open debate on 'hot issues' in the parliament has helped to maintain bipartisan support for the mission, eluding a detailed parliamentary scrutiny. To this extent, possible audience costs are minimized.

In sum, a weak parliamentary control of the mission allowed Italian governments to avoid public discussion especially on the changes regarding the evolution of the operations on the ground (*area of intervention, RoE, tasks, caveats, etc.*), while only occasionally news related to battles in Afghanistan forced the executive to discuss the mission before the parliament.<sup>150</sup> On the contrary, the Defense Committee of the *Bundestag* was regularly informed about Germany's military deployments, enhancing its scrutiny over the operations on the ground and its features.<sup>151</sup>

Also in this case, Italian and German public opinion had a similar attitude toward the mission, maintaining the support higher than 50 percent until 2009.<sup>152</sup> Afghanistan shows how executive–legislative relations are essential to understand not only why countries decide to send troops abroad but especially *how* they intervene: while Germany and Italy were involved on the ground, they had very different approaches, assets, and constraints. In line with our analysis, the constant oversight of the parliament (or the lack thereof) had different consequences in terms of audience costs and political responsibility in these two 'pacifist' countries, both with junior parties reluctant to support military operations.

While there was coherence among public opinion, decision-making, and the legislative in Germany over nonintervention in Iraq (2003),<sup>153</sup> the Italian choice to deploy troops in Iraq was more controversial. Despite the very negative attitude of the public toward the war in Iraq,<sup>154</sup> the Italian government sent around 3000 troops to Nasiriya. As highlighted by scholarship on Italy,<sup>155</sup> the executive managed to avoid an open discussion on the mandate of the mission after the dramatic transformation of the context on the ground, well-illustrated by the several attacks and deaths suffered by Italian troops. As stated by then Minister of Foreign Affairs Frattini, 'We are not here to discuss the initial vote of the parliament on the operation'.<sup>156</sup> Also in this case, despite the harsh criticism related to the lack of a multilateral framework, the opposition shared the 'humanitarian frame' of the government's narrative.<sup>157</sup> Relatedly, the Berlusconi's executive limited as

much as possible the parliamentary scrutiny – which would have deeply damaged such frame, due to the huge difference with the (combat) scenario on the ground – avoiding audience costs and attribution of responsibility for policies that caused dozens of casualties among Italian soldiers. The case of Iraq reveals how informal constraints, such as the (vague) parliamentary practice of voting on the (re)financing of *all* interventions, also supported the development of the large consensus on ‘peace mission rhetoric’ to address the (general) debates,<sup>158</sup> which allowed the executive to avoid a detailed parliamentary scrutiny of the operations.

Finally, the case of Libya (2011) well illustrates the crucial role of the parliament in German defense policy. Berlin abstained in the vote on United Nations Security Council Resolution 1973 and, contrary to many other European countries, did not participate to the military operations against the Gaddafi regime. Germany ‘opted out for the entire campaign’ in Libya,<sup>159</sup> raising criticisms about the limited contribution to regional security. Indeed, abstention caused ‘considerable surprise and irritation among Germany’s allies’.<sup>160</sup> According to several authors, domestic factors were crucial. For Maull:<sup>161</sup>

upcoming state elections and the low poll rating of the liberal party (FDP) purportedly had led then Foreign Minister Guido Westerwelle (FDP) to opt for a German abstention in the UN Security Council during the vote on the intervention in Libya in 2011.

Also, Miskimmon confirms how electoral incentives for abstention on the UN resolution to position the FDP in regional elections in Baden-Württemberg ‘were a motivating factor’.<sup>162</sup> In other words, German abstention ‘was driven by domestic political pressures facing the coalition government’.<sup>163</sup> As noted, the ‘German unreliability to provide support to allies’ was specifically caused by ‘the role of the Bundestag’.<sup>164</sup> Indeed, the government had to confront a deeply divided *Bundestag*. Because ‘the electoral system makes one-party government highly unlikely, the ruling parties in coalition governments must engage in constant consensus-building on major foreign policy issues’.<sup>165</sup> Thus, the parliamentary *ex ante veto* on military missions ‘complicates Germany’s ability to plan and coordinate with allies to undertake military operations if at any time the Bundestag can oppose Bundeswehr operations’.<sup>166</sup> Therefore, the lack of an open debate in the parliament, as requested by law, would have helped the cabinet to avoid political responsibility and audience costs before coming regional elections. Indeed:

a vote in the German parliament to secure the required mandate for a Bundeswehr contribution to the intervention would have been very unlikely to win the support of both coalition partners and to achieve a government majority. In consequence, the German government was determined not to put this question to the Bundestag.<sup>167</sup>

In fact, the Merkel cabinet did not submit a motion to the parliament, although the cabinet took it into consideration to support the operation,<sup>168</sup> confirming the reluctance of senior politicians to request a mandate for German participation in military interventions. The perceived calculus made by Westerwelle was reasonably affected by the legal duty of confronting a parliamentary debate for the approval of the mission. In his words, ‘Every intervention by our [military] would have to be mandated by this House. We have a parliamentary army, not a government army’.<sup>169</sup>

Public opinion in Germany and Italy was against the intervention. Only 37 percent of Germans favored the intervention, and while Italian support at the beginning was higher (47%), it quickly declined as air strikes were undertaken.<sup>170</sup> In Italy, where the Berlusconi government had a large majority and there was a substantial bipartisan support for Operation Unified Protector, the mission was discussed and voted in the commissions and in plenary. As occurred in Iraq, the detailed aspects of the intervention (e.g. the types of warplanes involved in the attacks) were deliberately excluded from the discussion by the executive, stressing how the assets employed and the nature of the military actions would have been a ‘natural extension’<sup>171</sup> of the UN Resolution. Once again, a closer bipartisan scrutiny would have affected the support toward the operation and the ‘humanitarian frame’ of its narrative, enhancing audience costs in a political context

marked by the vocal criticism expressed by the junior party within the majority coalition: the Northern League.<sup>172</sup> Moreover, Berlusconi regularly escaped public debates before the Assembly also because of his strict – and embarrassing – previous relationship with Gaddafi.<sup>173</sup> Indeed, the former Prime Minister delegated basically all the relevant communication on the operation to his ministers.

## Conclusion

This article provided insights into how different domestic institutions can affect decision-making in military interventions. First, it illustrated that parliaments play a role in shaping the opportunity structure of executives through formal and informal constraints that influence force deployment. Italy and Germany substantiate these arguments showing how – through time – different levels of parliamentary involvement over decision-making did impact executives' willingness to go through with interventions. When other factors (such as alliance requirements) pushed strongly for intervention, parliamentary costs could be overcome, as is the case for Germany in Kosovo. Second, the article revealed that limited involvement of the parliament in the decisions over force employment can help to explain why the Italian cabinet had a relatively free hand in revising troop levels, RoE, caveats, and operating areas in Afghanistan. Here, the very narrow procedural powers of the Parliament did not allow the opposition to effectively control the national military engagement, even in terms of the evolution of aims, tasks, and equipment across time.

From an empirical standpoint, the article also contributed to the debate on the evolution of defense policy in the two countries. By doing so, it opens the floor to new questions. Is Germany still reluctant and hesitant in the field of security? Germany participated, with a minimal role, in the anti-Islamic State of Iraq and the Levant (ISIL) coalition in Syria and Iraq starting in 2015, an intervention that followed the Paris terrorist attacks. Yet, the intervention did not entail bombing by German planes. Additional research would assess 'the trend towards a stronger domestic politicisation of German foreign policy'.<sup>174</sup> As for Italy, is activism going to continue in the future? More than other European countries, Italy suffered from the economic and financial crisis that led to reductions in the defense budget. The 2016 law finally codifying military missions should have a restraining role, but other factors (starting from the economic crisis combined with popular discontent that is reshaping the Italian political system) also explain the recent trend of diminishing interventionism. More recently, Italy has not provided its traditional contribution to international campaigns (e.g. Mali and the air strikes on ISIL), and at the same time has reduced the personnel deployed abroad.

Further research should investigate the reasons underlying the role of 'permissive conditions' such as institutional constraints in connection with other factors (such as strategic behavior and the preferences of political entrepreneurs, shifts in public opinion, and the changing external environment) that can provide insights into why, and how, countries intervene. For instance, attention to geopolitical constraints would also show how Italian geographical proximity to the unstable Southern frontier of Europe has been an incentive to intervene militarily, at least in Libya. At the same time, Germany also was deeply concerned about stability in Southeastern Europe, and yet failed to play a more decisive role there. Insights from literature on countries' role conceptions and subjective definitions of 'prestige' in particular can be further applied to these cases.<sup>175</sup> But the role of domestic institutional constraints should be recognized as a key factor in determining the possible space of action of policy-makers, requiring careful consideration in any analysis of why countries decide to undertake military missions.

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Prime Minister Andreotti, 16 January 1991, Chamber of Deputies. The term was also frequently used by members of the majority coalition from very beginning of the crisis. See Altissimo (Italian Liberal Party), August 23, 1990, Chamber of Deputies.

101.

Motion by the PCI, Arnaboldi et al., 77752 (January 16, 1991, Chamber of Deputies). The controversial term 'international police' was deemed a 'juridical fiction', Guerzoni, (PCI), January 16, 1991, Chamber of Deputies.

102.

Andreotti, January 16, 1991, Chamber of Deputies.

103.

Russo Spina (PCI), August 23, 1990, Chamber of Deputies.

104.

Buras and Longhurst, 'The Berlin Republic', p. 229.

105.

To authorize deployment in Somalia (1992–1994), the Italian parliament used the same procedures adopted during *Desert Storm* (i.e. not authorizing a state of war). The MPs voted on two missions together (Somalia and Mozambique) when troops were already on the ground. The opposition complained about the 'disregard of the parliament', Bertezolo, (La Rete), December 10, 1992, Chamber of Deputies.

106.

The Italian parliamentary oversight was very limited also during 'Operation Alba' (Albania, 1997). See Coticchia and Davidson, 'The Limits of Radical Parties'.

107.

Mello, *Democratic Participation in Armed Conflict*.

108.

Berenskoetter and Giegerich, 'From NATO to ESDP', p. 440.

109.

Struck (Chairman of the SPD in the Bundestag), 26 March 1999.

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112.

D. Dettke, 'The 2003 Iraq War as a Turning Point in German–American Relations: Political Leadership and Alliance Cohesion', *German Politics*, 27(2), 2018, pp. 158–73, p. 165.

113.

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114.

Longhurst and Miskimmon, 'Same Challenges, Diverging Responses'.

115.

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116.

Prime Minister D'Alema, 26 March 1999, Senate.

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Quoted in 'D'Alema: nel Kosovo siamo con la Nato'. 19 January 1999. *La Stampa*.

118.

A. Cossutta, former leader of PdCI, Chamber of Deputies, 26 March 1999.

119.

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120.

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121.

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122.

Quoted in 'Minniti: gli aerei erano già in volo e non potevamo dirlo'. 11 June 1999. *Il Corriere della Sera*. See also D'Alema and Rampini (1999).

123.

Coticchia and Davidson, 'The Limits of Radical Parties'.

124.

'Mozione Mussi et al'. Chamber of Deputies, March 26, 1999.

125.

'Meglio il Papa di D'Alema.' 26 January 1999. *La Stampa*.

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See: Prime Minister Prodi, April 9 1997, Chamber of Deputies.

127.

La Loggia (Go Italy), March 26, 1999, Senate.

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H. Aust and M. Vashakmadze, 'Parliamentary Consent to the Use of German Armed Forces Abroad', *German Law Journal*, 9, 2008, p. 2221

129.

Aust and Vashakmadze, 'Parliamentary Consent', p. 2233.



130.

Bundestag, November 8, 2011.

131.

Berenskoetter and Giegerich, 'From NATO to ESDP', pp. 407–52.

132.

Longhurst, *Germany and the Use of Force*, p. 74.

133.

We thank an anonymous reviewer for this suggestion.

134.

Longhurst, *Germany and the Use of Force*, p. 74.

135.

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139.

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J. Ryjáček, 'Losing the Power of Parliament? Participation of the Bundestag in the Decision-Making Process Concerning Out-of-Area Military Operations', *German Politics*, 18(4), 2009, pp. 485–500.

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Ruggia, (PD), January 24, 2011, Chamber of Deputies.

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147.

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