



Fachbereich WD 2

Parliamentary authorization of the deployment of armed forces abroad for the purpose of alliance defense and in case of the “state of defense”

Foreign deployments of the German armed forces in accordance with Art. 5 of the North Atlantic Treaty are subject to a **constitutive approval of Parliament** in accordance with the ruling of the **Federal Constitutional Court** (*Bundesverfassungsgericht*)¹ and the Parliamentary Participation Act.² The invocation of Article 5 of the North Atlantic Treaty and the resulting obligations of NATO-partners under international law to provide mutual military assistance do not alter the requirement of Parliamentary approval.

However, against the background of **international alliance obligations**, the **political scope for decision-making** of Parliament appears to be **largely restricted**. Whilst the German *Bundestag* may, in theory, deny the deployment of German armed forces in the context of mutual military assistance pursuant Art. 5 NATO-Treaty, this would probably be at odds with Germany's obligations under the NATO-Treaty.

In case that “the territory of the Federal Republic of Germany is under armed attack by foreign armed force” or that such an attack is imminent (c.f. Art. 115a Basic Law)³ the Parliament declares the “**state of defense**” (so-called „*Verteidigungsfall*“) with the consent of the *Bundesrat* – the second chamber of legislature, representing the Federal States' Governments. The corresponding resolution of the *Bundestag* to establish the state of defense (pursuant to Art. 115a Basic law) **simultaneously authorizes the deployment of armed forces at home and abroad**.⁴

1 cf. BVerfG Vol. 90, pp. 286, 383, available at: <https://www.servat.unibe.ch/df/bv090286.html>.

2 Gesetz über die parlamentarische Beteiligung bei der Entscheidung über den Einsatz bewaffneter Streitkräfte im Ausland, Parlamentsbeteiligungsgesetz, [*in English*: Parliamentary Involvement Act], Federal Law Gazette 2005 I, p. 775, available at: <http://www.gesetze-im-internet.de/parlbvg/>.

3 Grundgesetz für die Bundesrepublik Deutschland [*in English*: Basic Law for the Federal Republic of Germany], Federal Law Gazette Part III, classification number 100-1, as last amended by the Act of 20 December 2024 (Federal Law Gazette 2024 I, no. 439), available at: https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html.

4 *Schmidt-Radefeldt*, in: Epping/Hillgruber (Hrsg.), Grundgesetz-Kommentar, München: Beck, 60. EL, Dezember 2024, Art. 115a Rn. 15.

Prior parliamentary consent to the deployment of German armed forces abroad is then unnecessary.
