

The Defence Committee Tasks and Procedures

Establishment and composition of the Defence Committee

In principle, it is up to Parliament at the beginning of each new electoral term to decide on the number of committees it wishes to establish and the number of members of these committees. **However, the requirement for a Defence Committee to be established is anchored in the German constitution, the Basic Law (Article 45a (1), Basic Law).** Apart from the Defence Committee, this is true only of the Committee on Foreign Affairs, the Committee on the Affairs of the European Union and the Petitions Committee, the existence of which is also laid down in the Basic Law.

In the 18th electoral term, the Defence Committee comprises **32 members: 16** from the **CDU/CSU parliamentary group**, **10** from the **SPD**, **3** from the **Left Party** and **3** from **Alliance 90/The Greens**.

In addition to these titular members, the Committee has an equal number of substitute members. The Committee is **chaired by Wolfgang Hellmich from the SPD parliamentary group**. His deputy is **Prof. h. c. Dr Karl A. Lamers from the CDU/CSU parliamentary group**.

Functions of the Defence Committee

Like the other German Bundestag committees, the Defence Committee has two main tasks: it prepares the decisions to be taken by the plenary with regard to legislation and it supports Parliament in scrutinising the work of the government.

Involvement in legislation

The classic tasks of the Defence Committee include deliberating on bills and motions and other items referred to it by the plenary. If such an item is relevant to several committees, the Defence Committee in some cases participates in the deliberations in an advisory capacity, informing the lead committee appointed by the plenary of its opinion. In some cases, it is itself nominated the lead committee; it therefore includes in its decision the opinions of the committees participating in an advisory capacity and submits its recommendation to the plenary as to whether to adopt or reject an item, along with a report.

In the initial years after the establishment of the Defence Committee, this role of shaping legislation was particularly important, since a new legal framework had to be created for the Bundeswehr, which was established in 1955. For this reason, the main task of the Defence Committee in its early phase was to assist in shaping legislation on the armed forces. In this context, the Legal Status of Military Personnel Act, the Compulsory Military Service Act, the Military Pensions Act and the Military Disciplinary Code should be mentioned. Once legislation on the armed forces had been adopted in the 1950s, the focus of the Committee's work shifted to concentrate more strongly on the second classic duty of a committee: parliamentary oversight of the work of the executive. Nevertheless, shaping legislation still of course plays a role – and it is not just a matter of amending existing laws relating to defence. Over the last few years in particular, against the background of increasingly frequent deployments abroad, the Defence Committee has fed its ideas into laws drafted as a reaction by Parliament to the changing situation – either as the lead committee or in an advisory capacity. Examples of this include the Special Foreign Assignments Benefits and Pensions Act, the Act on Improvements to the Provision of Benefits and Pensions for Special Foreign

Assignments, the Act on the Continued Employment of Personnel Injured in Operations, the Compulsory Military Service Act and the Bundeswehr Reform Act.

Parliamentary oversight

The Defence Committee is the parliamentary body which corresponds to the Federal Ministry of Defence and its subordinate agencies, i.e. the armed forces and the Federal Defence Administration. Thus, its remit covers a larger section of the executive than any other Bundestag committee. In addition, the potential power of the armed forces calls for particularly intensive scrutiny. For this reason in particular, the Defence Committee has to have a special status in several ways in order to effectively carry out its role of exercising oversight. Not only is the committee's very existence stipulated in Article 45a of the Basic Law; it is also the only committee of the German Bundestag which can convene itself as a committee of inquiry. The Defence Committee also plays an important role in deliberating on and executing the defence budget. Finally, Article 45b of the Basic Law establishes the institution of the Parliamentary Commissioner for the Armed Forces, to assist the Bundestag in exercising parliamentary oversight. The Parliamentary Commissioner's assessment of the current situation of the troops, as set out in his or her annual reports, represents an important source of information and knowledge and is therefore fed into deliberations.

Like all the other committees, the Defence Committee can also consider and make recommendations on issues falling within its terms of reference on its own initiative, without an item having been referred to it by the plenary. The basis for such deliberations is generally a report by the Federal Ministry of Defence, which the Committee has requested and which sets forth a specific matter or comments on the reports or representations of third parties. The assessments of the Defence Committee which emerge from the subsequent discussion are not legally binding on the Federal Government but are of considerable political importance. In practice, this procedure is the instrument which the Committee most frequently uses in the exercise of parliamentary oversight of the Federal Government. It corresponds to the right of the committees, laid down in the Rules of Procedure of

the German Bundestag, to summon a member of the Federal Government to a committee meeting at any time (Rule 68 of the Rules of Procedure).

The way the Defence Committee works

The meetings of the Defence Committee take place regularly on Wednesdays in the weeks which the Bundestag has designated as weeks of sittings. Since, like the Committee on Foreign Affairs and the Committee on Internal Affairs, the Defence Committee is a “closed committee”, access to its meetings is restricted to the titular committee members, their substitutes, the Parliamentary Commissioner for the Armed Forces, the chairpersons of the parliamentary groups and the President of the German Bundestag. Representatives of the ministries and the *Land* governments expressly authorised and subjected to security checks in advance and specific members of staff from the parliamentary groups and the Administration are also permitted to attend. The distribution of documents concerning meetings, including the minutes, is also restricted to a group of persons decided by the Committee.

At administrative level, the Defence Committee has a secretariat to support it in its work. The secretariat’s main task is to prepare, run and follow up committee meetings. This involves, for example, compiling documents for the Committee’s deliberations, distributing the agenda, drafting recommendations for decisions and reports to be submitted to the plenary, and drawing up the minutes of meetings. In addition, the secretariat is responsible for processing letters from the public sent to the Committee, for preparing and organising trips by delegations and meetings which take place outside the Bundestag, as well as dealing with groups of visitors from Germany and abroad.

The Defence Committee as a committee of inquiry

The Defence Committee has a special status as the only committee with the right to convene as a committee of inquiry (Article 45a (2) of the Basic Law). All other committees require a parliamentary decision to do so. A committee of inquiry is Parliament's strongest weapon in scrutinising government actions. The committee of inquiry can clarify matters by taking evidence, for instance by interviewing witnesses or inspecting files.

The procedures for the inquiry are largely organised along similar lines to those of a conventional committee of inquiry established under Article 44 (1) of the Basic Law. The relevant procedural regulations are contained in the Act Governing the Legal Framework for Committees of Inquiry of the German Bundestag, passed in 2001. Under Section 34 (4) of this Act, its provisions also apply to the procedures of the Defence Committee when it convenes as a committee of inquiry. In addition, Section 34 of this Act contains a number of special provisions taking into account the special situation of the Defence Committee serving as a committee of inquiry. For example, since the composition of the Defence Committee is identical to that of the committee of inquiry, the Chair of the Defence Committee also chairs the committee of inquiry. Another special regulation is set out in the Basic Law itself, in Article 45a (3), which declares that Article 44 (1) – including the principle that evidence is taken in public – does not apply to defence matters.

In the last electoral term, the Defence Committee convened itself twice as a committee of inquiry. The first committee of inquiry was established to investigate the air attack in Kunduz, Afghanistan, of 3/4 September 2009 on two fuel tankers hijacked by Taliban, along with the Federal Government's practice in investigating the events and providing information to the public, and the question as to whether the actions taken were in line with national and multinational political, legal and military rules to be observed in the mission in Afghanistan. The committee of inquiry concluded its work with the presentation of its final

report (Bundestag printed paper 17/7400), which was deliberated on and acknowledged by the plenary on 1 December 2011.

On 26 June 2013, the Defence Committee once again convened itself as a committee of inquiry. This time, the committee of inquiry was tasked with investigating by 31 August 2013 the Federal Government's handling of the project to develop the Euro Hawk drone, with regard to contractual, legal, budgetary, military, technological and political aspects, as well as with examining the Federal Government's practice in investigating these events and providing information to the public. One of the focal points of the inquiry was the handling of the serious problems which had come to light since the conclusion of the development contract. The final report (Bundestag printed paper 17/14650) was debated by the plenary on 2 September 2013.

The rights of the Defence Committee as regards preparation of the budget

The federal budget is adopted annually by the German Bundestag in the form of a law. The draft budget submitted by the Federal Government is referred to the Budget Committee for deliberation. Though the Defence Committee is not assigned any formal competence as regards the deliberations on the budget law, it nonetheless exerts considerable influence on the budget deliberations by considering the departmental budget of the Federal Ministry of Defence and the budget of the Parliamentary Commissioner for the Armed Forces and informing the Budget Committee of its expert opinion. As a rule, the Budget Committee takes its recommendations into account.

In addition, the Defence Committee exerts influence on the execution of the defence budget as a result of the obligation of the Minister of Defence, irrespective of the budget law, to submit to the Defence Committee all procurement projects of special importance in security or military policy terms, as well as those procurement projects requiring an outlay of €25 million and upwards, for the Committee to deliberate on them. In parliamentary practice, such procurement

projects have so far not been implemented without the consent of the Defence Committee, even if they were included in the budget law.

The influence of the Defence Committee on international missions of the Bundeswehr outside national and Alliance defence

In its decision of 12 July 1994, the Federal Constitutional Court ruled that deployments abroad of the German armed forces are permissible under the Basic Law in certain circumstances, but that the consent of Parliament is required for every such mission and that this consent should, in principle, be given in advance. This ruling underlined the special character of the Bundeswehr as a “parliamentary army”, lending the German Bundestag a truly central role in decisions on deployments abroad of German armed forces. In late 2004, a legal framework for parliamentary involvement was created with the adoption of the Parliamentary Participation Act. This legal framework reflected parliamentary practice which had been ongoing for ten years. Parliament does not have the right to demand on its own initiative that a mission take place, however. It may only object to a mission, or demand the cessation of a mission which is already under way.

Within Parliament, the Defence Committee examines in particular detail and on a regular basis all international missions of the Bundeswehr that are planned or already taking place. And it does so not only from a military perspective – since the service personnel of the Bundeswehr are frequently involved in fields which are also difficult from a security-policy point of view. Thus, examination of various aspects of international security policy has taken on an increasingly important role in the work of the Defence Committee. As a result, there is a certain amount of overlap between its terms of reference and those of the Committee on Foreign Affairs, which makes it necessary for both committees to cooperate closely.

In dealing with deployments abroad, the Defence Committee calls on the Federal Government to update it at regular intervals on the situation in deployment areas. In addition, it undertakes trips to these regions in order to see at first hand the situation on the ground. Whilst the Committee on Foreign Affairs is the lead committee for all questions on sending troops abroad or extending their stay, the Defence Committee is always involved in an advisory capacity as a committee asked for its opinion. Since intensive deliberations on deployments take place in the Defence Committee at all stages, its opinion carries particular weight.

Subcommittees of the Defence Committee

The Defence Committee did not establish any subcommittees or rapporteur groups in the last electoral term. However, a cross-party Committee working group did examine the question of how best to pay tribute to Bundeswehr personnel killed in action.