



Deutscher Bundestag

The Parliamentary Commissioner for the Armed Forces Safeguarding Servicewomen and Men's Basic Rights and Overseeing the Forces





Regardless of their general right of petition, every servicewoman and man is able to address submissions to the Parliamentary Commissioner for the Armed Forces. The Commissioner's mandate is formulated in the Basic Law: 'A Parliamentary Commissioner for the Armed Forces shall be appointed to safeguard basic rights and to assist the Bundestag in exercising parliamentary oversight of the Armed Forces.' The Parliamentary Commissioner possesses comprehensive rights that enable them to perform this mandate. They investigate matters upon instructions from the Bundestag, but are also able to pursue complaints from servicewomen and men purely at their own initiative. The Parliamentary Commissioner presents the results of their work once a year in a report submitted to the Bundestag. The present brochure is intended to give some idea of the significance attached to this institution since its creation in 1956.

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Dear reader,

Every servicewoman and man has the right to submit petitions to the Parliamentary Commissioner for the Armed Forces directly – in confidence, without having to go through official channels. I like the description of the Commissioner as the ‘advocate’ of service personnel. The Commissioner is responsible for safeguarding the basic rights of servicewomen and men. This principle is enshrined in the Basic Law. I deal with issues of concern to them, their worries and hardships – from equipment, training and working hours to balancing family life and service, allowances and pensions. Every issue raised in this way is dealt with as a ‘submission’. Approximately 2,500 such submissions are processed every year by the office of the Parliamentary Commissioner. In addition, the Commissioner is tasked with examining around 1,500 ‘reportable’ events and incidents per year which are referred from the different Bundeswehr locations.

In my work, I especially focus on direct contact with servicewomen and men. This contact comes about through the processing of submissions and by visiting troops stationed both in Germany and abroad and talking to them. I listen and look closely, I highlight shortcomings and urge improvements. Every year, a comprehensive report is written and published to this end. The report is an important barometer for the current concerns of service personnel; it highlights the resources they are lacking and areas where problems exist.

At the same time, I assist the Bundestag as an ‘auxiliary organ’ in exercising parliamentary oversight over the Bundeswehr and monitor compliance with the principles of *Innere Führung* (leadership and civic education). The Parliamentary Commissioner for the Armed Forces is elected by the Bundestag.

Both the Bundestag and its Defence Committee can instruct the Commissioner to examine a certain matter.

With its far-reaching rights and powers and a position enshrined in the Basic Law, the office of the Parliamentary Commissioner for the Armed Forces has

Foreword by the Parliamentary
Commissioner for the Armed Forces
Dr Eva Högl

a very special status. I therefore feel especially honoured and pleased to be able to exercise this office. No other profession or institution anywhere in Germany has a comparable commissioner elected by Parliament.

Indeed the office of the Parliamentary Commissioner in its specific form is unique across the world. There are two main reasons for this particular status.

Firstly, the work of soldiers is not a normal job. They put their lives on the line for our liberty and security, for peace, democracy and the rule of law. They are part of a special type of hierarchy, governed by the principle of obedience to orders. The protection of their basic rights therefore deserves particular attention. Secondly, the Bundeswehr was conceived as a parliamentary army. Every deployment must be justified to Parliament. This was one of the lessons drawn from the horrors of the Second World War. Never again were German armed forces to become a 'state within the state'. Instead, they were to be an army of highly committed citizens, an

army standing firmly on the foundation of the Basic Law – with democratic legitimacy and subject to democratic oversight. This was precisely the motivation in establishing the office of the Parliamentary Commissioner in 1956.

Today, we can say that the Bundeswehr is firmly rooted at the heart of our society. As Parliamentary Commissioner for the Armed Forces, I would like to encourage people to once again give service personnel the esteem and appreciation they deserve. And I wish to help improve the framework in which they work, enabling them to perform their service with commitment and motivation.

In this brochure, you can read about the history of the Parliamentary Commissioner for the Armed Forces and how the office developed over time – one of the historical achievements of our parliamentary democracy. You can also gain an overview of my duties and responsibilities, as well as the basic rights of service personnel and their protection.

Dr Eva Högl
Parliamentary Commissioner for the
Armed Forces



Democracies are at pains to integrate their armed forces into the rest of society and effectively oversee their use of force. Parliamentary oversight is of particular significance here. The Bundeswehr was consequently conceived as a parliamentary army.

Introduction

The armed forces play a significant role in the fabric of every state. By virtue of their mission, their structure and the instruments of power with which they are entrusted, they occupy a special position. It is in the interests of the democratic state that the armed forces should only exploit their opportunities to exert influence in accordance with the constitutional order. This applies not only to the use of military force as such, but also to the treatment of the servicewomen and men who serve in them.

Democratically constituted states are at pains to integrate their armed forces strongly into the rest of society and to ensure effective oversight of how those forces use their capabilities. In this respect, parliamentary scrutiny is of particular significance.

The instruments of parliamentary oversight in Germany take diverse forms, ranging from Parliament's right to fix the budgetary resources allocated to the armed forces and the accountability of the civilian Federal Minister of Defence before Parliament to measures that guarantee service personnel have forms of legal protection open to them.

The specific ways parliaments exercise oversight over the armed forces in democracies have developed along what are, in some respects, highly varied lines. The form such oversight takes can often only be understood in the light of history. This applies to a particular degree for the Federal Republic of Germany.



Visiting Parliament: members of the Bundeswehr follow a sitting of the Bundestag on the visitors' gallery in the Plenary Chamber.

When the Bundeswehr was founded, care was taken to ensure that it would be subject to robust parliamentary oversight. The creation of the Office of the Parliamentary Commissioner for the Armed Forces is regarded as one of the most important achievements in this field.

Historical development

It is a distinctive feature of the history of the constitutional provisions concerning the armed forces in Germany that, both in the >Weimar Republic and until the fall of the National-Socialist dictatorship in 1945, the head of state was simultaneously commander-in-chief of the armed forces. However, the absence of democratic structures in the armed forces was just as characteristic. Even in the Weimar Republic, democracy ended at the barracks gate: servicemen were forbidden any political activity, and were not allowed to either vote or stand in elections. High-ranking representatives of the armed forces made no secret of their disdain for the democratic constitution.

In 1949, the population in the western part of Germany adopted a constitution modelled on the principles of democracy and the rule of law that held sway in other Western European countries and North America. It did not initially envisage the establishment of armed forces. Just a few years later, against the backdrop of deepening East-West tensions, the USA and Britain began to argue that the young Federal Republic of Germany too should be contributing militarily to the preservation of freedom in the Western world.

Weimar Republic In the aftermath of the First World War, and following the November Revolution and the forced abdication of Emperor William II, the Weimar Republic was established in 1918 with Germany's first democratic, parliamentary constitution. At the head of the Republic stood a Reich President directly elected by the people for seven years, who was part of the executive and held the right to issue emergency decrees. The Reich Government was led by the Reich Chancellor, who was however dependent on the President and the majority in parliament, the Reichstag. The Weimar Republic was swept away in 1933 when the National Socialists seized power.

An impassioned debate ensued in parliament and society about the re-establishment of armed forces this would entail. Memories of the Wehrmacht's involvement in the tyranny of the Nazi dictatorship and the experiences of a criminal war were still very much alive. Ultimately, the founding of new armed forces became inescapable as the Cold War between the East and West escalated. There was broad political agreement that they would require special oversight. The

possibility of any future misuse of power by the military was to be ruled out from the outset. This political will was translated into reality by placing the armed forces, as part of the >executive, under the control of a minister accountable to Parliament, while a Defence Committee was set up and endowed with special rights otherwise enjoyed only by the Bundestag's committees of inquiry.

Executive The executive is the branch of the state with the power to implement ('execute') legislation. In doing so, it is bound by current law. Apart from the Federal Government, the executive in Germany consist of all authorities of the Federation, the *Länder* and the municipalities, including the *Land* administrations, the public prosecution offices, the police and the tax offices, all of which implement laws at different levels. The executive is able to make changes to the law by issuing what are known as 'ordinances', where it is specifically empowered to do so by acts that determine the content, purpose and scope of such secondary legislation.

The Social Democratic opposition also demanded that, in order to strengthen the mechanisms of parliamentary oversight, the constitution should make provision not merely for the Federal Chancellor, but the Federal Minister of Defence too to be removed by means of a vote of no confidence. This demand was rejected emphatically by the ruling majority made up of the Christian Democratic Union (CDU), the Christian Social Union (CSU) and the Free Democratic Party (FDP). A compromise was reached, according to which a Parliamentary Commissioner for the Armed Forces was to be appointed as an additional instrument of parliamentary oversight alongside the Defence Committee.

Apart from parliamentary oversight, a further system of control was created within the Bundeswehr: *Innere Führung*. After the experiences of the National Socialist tyranny and the Second World War, the aim was to anchor within the armed forces an ethos that obliged each individual to be ultimately responsible for their own actions. No command can supplant an individual's conscience, while the right to resist attempts to subvert the constitutional order and install a dictatorial regime is even explicitly formulated in the famous, unamendable > Article 20 of the Basic Law.

Basic Law The Basic Law is the constitution of the Federal Republic of Germany. It was adopted by the Parliamentary Council on 8 May 1949 and promulgated on 23 May 1949. The Basic Law lays down the fundamental characteristics of the state and articulates its values. It ranks above all other German legal norms. The consent of two-thirds of the Members of the Bundestag and the Bundesrat is required in order to amend the Basic Law. However, there are unamendable principles enshrined in the Basic Law. According to Article 79(3), for instance, it is inadmissible to amend the division of the Federation into *Länder*, the participation of the *Länder* in the legislative process or the principles laid down in Articles 1 and 20. Article 1 guarantees human dignity and underlines the binding legal force of the basic rights. Article 20 proclaims central constitutional principles, for example that the Federal Republic of Germany is a democratic and social federal state.

On 19 March 1956, Article 45b was incorporated into the Basic Law as one of the new constitutional provisions relating to the armed forces. It delineates the mandate and status of the Parliamentary Commissioner for the Armed Forces as follows: 'A Parliamentary Commissioner for the Armed Forces shall be appointed to safeguard basic rights and to assist the Bundestag in exercising parliamentary oversight of the Armed Forces. Details shall be regulated by a federal law.' To implement this new constitutional article, the Bundestag passed the Act on the Parliamentary Commissioner for the Armed Forces, which entered into force on 27 June 1957. On 19 February 1959, the Members of the German Bundestag

elected Helmuth von Grolman as the first Parliamentary Commissioner by a large majority. He was followed in office by Hellmuth Guido Heye, Matthias Hoogen, Fritz Rudolf Schultz, Karl Wilhelm Berkhan, Willi Weiskirch and Alfred Biehle. An amendment to the Act on the Parliamentary Commissioner for the Armed Forces in 1990 made it possible for candidates who had not served in the armed forces to be elected to this position. In 1995, Claire Marienfeld-Czesla became the first woman to be elected Parliamentary Commissioner. Since 2000, she has been succeeded by Willfried Penner, Reinhold Robbe, Hellmut Königshaus, Hans-Peter Bartels and in 2020 by Eva Högl, the second woman to hold this office.

With the Parliamentary Commissioner for the Armed Forces, an institution was created that was unprecedented in German constitutional history.



Early years of the parliamentary army: just a year after the Bundeswehr was founded in 1955, young servicemen read *Die Ersten Schritte* (First Steps), a magazine published by the Federal Ministry of Defence.

The Parliamentary Commissioner for the Armed Forces belongs to the legislature, assisting the Bundestag and supporting it in its oversight of the armed forces.

The Parliamentary Commissioner's constitutional position

By stating that the Commissioner ‘shall assist the Bundestag’ and by giving them the title ‘Parliamentary Commissioner for the Armed Forces’, the Basic Law and the Act on the Parliamentary Commissioner for the Armed Forces enacted pursuant to it make it abundantly clear that they are in all respects part of the German Bundestag, and therefore unambiguously belong to the >legislature. By contrast, the Federal Ministry of Defence, which is overseen by the Parliamentary Commissioner with its subordinate units, agencies and authorities in the armed forces and the Federal Defence Administration, is part of the executive.

Furthermore, the following provisions govern the relationship between Parliament and the Parliamentary Commissioner for the Armed Forces:

- ▣ The Parliamentary Commissioner has duties to report to the Bundestag.
- ▣ The Bundestag and the Defence Committee may at any time request that the Parliamentary Commissioner attend their deliberations.
- ▣ The Bundestag and the Defence Committee have limited rights to issue instructions to the Parliamentary Commissioner.
- ▣ The Parliamentary Commissioner cannot take action if the Defence Committee has made the matter in question the subject of its own deliberations.

Legislature The legislature is the branch of the state with the power to make laws. In a representative democracy characterised by the division of powers, this is the task of parliament. The most important functions of the Bundestag, Germany’s legislature, are the adoption of legislation and the oversight of the Federal Government, the executive. The division of powers is regulated by the Basic Law and is one of its unamendable principles.

The Parliamentary Commissioner has a special status under German public law, which is governed by the Act on the Parliamentary Commissioner for the Armed Forces.

The Parliamentary Commissioner's official status

The Parliamentary Commissioner is neither a Member of the Bundestag nor a civil servant, but has a special status, holding office under public law in accordance with the provisions of the Act on the Parliamentary Commissioner for the Armed Forces.

During their term of office, the Parliamentary Commissioner may not hold any other paid office, engage in any trade, practise any profession or hold any political mandate.

In accordance with the Act on the Parliamentary Commissioner for the Armed Forces, the Parliamentary Commissioner's deputy is the Chief Administrator, who exercises their rights, with the one exception of the right to make unan-

nounced personal visits to military units, should the Parliamentary Commissioner be prevented from discharging their duties and from the time they leave office until their successor's term of office commences.

The German Bundestag elects the Parliamentary Commissioner by secret ballot without prior debate. Candidates may be nominated by the Defence Committee and the >parliamentary groups in the Bundestag. The candidate who receives the majority of the votes cast by the Members of the Bundestag is elected.

Parliamentary group The parliamentary groups are organisations of Members of the German Bundestag that play a crucial role in all parliamentary work and prepare the decisions taken by the Bundestag. A parliamentary group can be formed by at least five per cent of the Members of the Bundestag who belong to the same party or different parties that do not compete with each other in any of the Länder on account of their similar political aims.

Any German citizen over the age of 35 may stand for election. There is therefore no formal requirement that candidates should have gathered experience of everyday military life as servicemen or women.

The Parliamentary Commissioner is appointed by the President of the Bundestag* and sworn in before Parliament. They commence their term of office upon being handed their letter of appointment or upon being sworn in, if this is done at an earlier date. The Com-

missioner's term of office lasts five years and thus one year longer than Parliament's electoral term. This helps to guarantee their independence should there be changes in the relative strengths of the parties following new elections. It is admissible for them to be re-elected, even more than once.

The Commissioner's term of office ends upon completion of their tenure, upon their death, upon their dismissal by Parliament or upon their resignation.

*Further information can be found in the brochure "The German Bundestag"



'... and do justice to all': the new Parliamentary Commissioner, Eva Högl, is sworn in before Parliament by the President of the German Bundestag, Wolfgang Schäuble (CDU/CSU).

The Basic Law grants special rights of parliamentary oversight to the Bundestag, which is supported by the Parliamentary Commissioner for the Armed Forces, whose mandate is to safeguard service-women and men's basic rights.

Statutory mandate

According to Article 45b of the German Basic Law, the Parliamentary Commissioner's mandate is to 'safeguard basic rights and to assist the Bundestag in exercising parliamentary oversight' over the Bundeswehr. Their functions are defined in detail in the Act on the Parliamentary Commissioner for the Armed Forces.

The Parliamentary Commissioner's mandate is delineated in Section 1(2) and (3) of the Act, according to which they take action for two reasons:

- upon instructions from the Bundestag or the Defence Committee to investigate specific matters (Section 1(2) – scope of action taken under instructions) or
- on their own initiative and at their due discretion when circumstances come to their attention that suggest a violation of the basic rights of members of the armed forces or of the principles of *Innere Führung* (Section 1(3) – scope of action taken on own initiative).

Alongside the scope of action defined in Section 1(3), within which the Parliamentary Commissioner may exercise oversight on their own initiative, the scope of action upon instructions laid down in Section 1(2) covers the entire spectrum of parliamentary oversight in the defence field. This makes it clear that the Parliamentary Commissioner's mandate to exercise oversight goes beyond the 'basic rights of service personnel' and the 'principles of *Innere Führung*'. In practice, the Bundestag has never issued instructions to the Parliamentary Commissioner since 1959, and the Defence Committee has done so in only 26 cases. The Parliamentary Commissioner may request that the Defence Committee instruct them to investigate specific matters.

However, the main focus of the Parliamentary Commissioner's work is clearly the action they take on their own initiative. The circumstances that prompt the Parliamentary Commissioner to investi-

gate a matter may come to their attention for instance during field visits, thanks to information supplied by Members of the German Bundestag or other persons, submissions from servicewomen and men or the evaluation of reports about 'special incidents' from units, but also in other ways, for example through the press, television or radio reports.

The Commissioner's scope of action on their own initiative extends to the Federal Ministry of Defence and all its subordinate formations, units and agencies. The Parliamentary Commissioner does not take action if the Defence Committee has made a matter the subject of its own deliberations.

However, the Parliamentary Commissioner's functions are not limited to exercising oversight over the armed forces on behalf of the Bundestag. The Act on the Parliamentary Commissioner for the Armed Forces also assigns them the task of dealing with petitions submitted by service personnel. Every servicewoman and man has the right to contact the Parliamentary Commissioner directly without going through official channels.

Servicewomen and men's basic rights

The 'basic rights of servicewomen and men' are identical with the general basic rights guaranteed in the German constitution. Servicewomen and men find themselves in a hierarchy governed by the principle of obedience to orders. There is, therefore, a high degree of tension between the freedoms and rights of the individual on the one hand, and the special demands imposed by military service on the other. In principle, the Basic Law guarantees everyone who serves in the country's armed forces the same freedoms and rights as are enjoyed by other people in Germany. Servicewomen and men are 'citizens in uniform'. Their basic rights may, however, be restricted in line with constitutional provisions, provided this is absolutely essential to meet the demands of their military duties.

Visiting the troops: Eva Högl on board the corvette Magdeburg at Navy headquarters in Rostock.

The principles of *Innere Führung*

This requires a basis in law. For instance, provision has been made for all persons serving in the armed forces to benefit from the following protections:

- ▣ the unrestricted principle of respect for and the safeguarding of their dignity as human beings: no matter how tough the training they do, for example, no one may be subjected to humiliating or degrading treatment;
- ▣ the basic right to freely express their opinions – restrictions may be imposed on service personnel’s freedom of expression in the interests of the Bundeswehr’s capacity to perform its functions, but it also remains possible for them to be active in political parties, for example, when they are off duty;
- ▣ the basic right to protection against violations of their rights by public authorities – servicewomen and men too are able to have recourse to the courts to obtain legal remedies.

When the Bundeswehr was founded, the ‘principles of *Innere Führung*’ were discussed as a concept for reform that would anchor the new armed forces in the young democratic state. The Bundeswehr was itself to be constituted in accordance with democratic principles. At the same time, service personnel were to be ‘citizens in uniform’, committed to the democratic rule-of-law state, but also equipped with democratic rights such as the right to stand in elections, freedom of association and the right to staff representation. These principles firstly embody a fundamental concept for the internal organisation of the Bundeswehr, and secondly the armed forces’ integration into state and society. Internally within the armed forces, the aim is to ensure that a modern form of leadership is practised. *Innere Führung* serves to compensate for the tensions that arise between individual rights and freedoms on the one hand, and the demands of military duties on the other, helping service personnel cope with such contradictions.



Both the substance and the forms of superior officers' leadership behaviour must be imbued with respect for human dignity as the foundation of Germany's constitutional order. Account is to be taken of the latest societal, political and social developments and trends in the Federal Republic of Germany, as well as the implications of changes in military technology. *Innere Führung* is to be reflected 'in leadership and in training, in the exercise of disciplinary power, in the provision of civic education and information for the troops, in care and concern for the individual, in a sense of community outside duty hours', as Count Wolf Baudissin, one of the spiritual fathers of the concept for the reform of Germany's armed forces, noted in 1953.

In accordance with the principles of *Innere Führung*, the parameters of everyday life in the military, defined as they are by organisational forms, the principles of personnel management and the forces' infrastructure, are to ensure that everyone is respected as an autonomous, responsible human being.

Externally, the Bundeswehr and service personnel are to integrate into state and societal structures just like all non-military institutions and civilians. They are to perceive themselves, and be perceived by others outside the armed forces, as integral components of society in its entirety. The aim of this aspect is to dispel any worries that the Bundeswehr could take on a life of its own and become a 'state within the state' – a danger inherent in any armed force.

The discussion within the Bundeswehr about the concept of *Innere Führung* reached a provisional conclusion in February 1993 with the issue of Joint Service Regulation 10/1, '*Innere Führung*', which has in the meantime been updated as Type A General Publication 2600/1, '*Innere Führung – Self-Perception and Leadership Culture*'. It gives a full account of the concept.

The objectives of *Innere Führung* are,
□ to communicate the political and legal reasons for military service, and to convey insights into and understanding of the purpose and meaning of the military mission;

□ to promote the integration of the Bundeswehr and its servicewomen and men into state and society, and to inspire public understanding of the Bundeswehr's functions;

□ to strengthen servicewomen and men's willingness to perform their duties conscientiously, and to maintain discipline and cohesion within the armed forces;

□ to ensure that the internal order of the armed forces is organised on the basis of respect for human dignity and oriented towards Germany's legal system, and that the performance of their mission is managed as efficiently as possible.

The actual meaning and aspirations of *Innere Führung* in everyday military life are primarily laid down in a series of laws, orders and service regulations. The crucial foundation is the Legal Status of Military Personnel Act, which describes servicewomen and men's rights and duties, in particular in their roles as superiors and subordinates. However, the practical application of current regulations is not all there is to *Innere Führung*. This applies in special measure to the manner in which superiors treat their subordinates in everyday military life. They are expected to lead not only in accordance with the letter of the law, but also with empathy and sensitivity. As citizens in uniform, people who serve in the forces are to retain their freedom as individuals. They are to act responsibly while maintaining their operational readiness. They are not called upon to show blind obedience, but obedience born of understanding.



Citizens in uniform: members of the Bundeswehr giving their public oath of allegiance.

Parliamentary oversight of the armed forces

The principle of parliamentary oversight involves the constant scrutiny of executive public authorities, that is to say the government and its subordinate agencies, by Parliament. The Federal Ministry of Defence and the Bundeswehr are therefore subject to such scrutiny as well. Parliamentary oversight is not limited to what in Germany is known as ‘repressive supervision’, under which decisions may be revised or overturned; it can be exercised preventively by exerting influence in advance, through monitoring, collaboration and guidance, and it can also be exercised retrospectively.

The Basic Law grants the German Bundestag special rights in relation to parliamentary oversight of the armed forces. For instance, it has the right to adopt and control the execution of the budget (Article 87 a(1) of the Basic Law), which specifies the strength of the Bundeswehr and how it should be organised. This means decisions taken by the majority of the Members of the Bundestag determine the level of spending on defence, as well as the Bundeswehr’s equipment and strategy. Operations outside Germany also require approval by a majority in parliament under the Act governing Parliamentary Participation in Decisions on the Deployment of Armed Forces Abroad.

With its Defence Committee (Article 45 a of the Basic Law), Parliament has a further instrument of parliamentary oversight at its disposal that is equipped with special rights. The Defence Committee is conceived as a permanent committee and, unlike the overwhelming

Parliamentary oversight: The Bundestag’s Defence Committee has special rights to exercise oversight of the Federal Armed Forces.

majority of the other committees, it is compulsory for it to be established during every electoral term. In addition to this, it is the only committee entitled to constitute itself as a committee of inquiry on the motion of one quarter of its members. As such, equipped as it is with certain rights under criminal procedural law, it is able to investigate, analyse and conclusively assess incidents or other matters in the Bundeswehr.

Parliament's options for oversight are rounded off by the Parliamentary Commissioner for the Armed Forces placed at its side by the constitution, to whom various instruments of parliamentary oversight have been given. For instance, the Parliamentary Commissioner too is able to subject incidents and other matters in the Bundeswehr to investigation. Not only that, thanks to their rights of preventive and retrospective oversight, they have opportunities to proactively make suggestions and proposals, not only in order to eliminate shortcomings

identified in the Bundeswehr, but also to avert unwelcome developments. The Parliamentary Commissioner makes use of these rights above all in their annual reports.

Finally, the setting of the Parliamentary Commissioner's term of office at five years – and therefore one year longer than the Bundestag's electoral term – is also an expression of their significant role within the context of parliamentary oversight. It not only means the Parliamentary Commissioner is independent of possible changes in the relative strengths of the parties when Parliament is newly constituted or during the rest of the electoral term; the continuity of their exercise of their office from one electoral term to the next also guarantees the continuity of the parliamentary oversight of the armed forces.



Verteidigungs- ausschuss

Ausschussvorsitz 2 743
Sekretariatsleitung 2 744

The Parliamentary Commissioner for the Armed Forces has statutory powers that enable them to perform their constitutional mandate, including rights to demand information, and powers to make proposals and recommendations.

Official powers

Rights to information

The Parliamentary Commissioner has the right to demand information and access to records from the Federal Ministry of Defence and all its subordinate agencies. When reviewing submissions, for instance, they are able to request that the Bundeswehr or other agencies investigate a certain matter, comment on the outcome of investigations and submit relevant documents to the Parliamentary Commissioner. Furthermore, the right to demand information is the basis on which they and the staff in their Office hold meetings with personnel within the jurisdiction of the Federal Ministry of Defence in order to learn more about issues and establish working contacts. When acting on instructions from parliament and dealing with submissions in which the petitioner expresses a specific grievance, the Parliamentary Commissioner is able to hear the servicewomen and men concerned, witnesses and experts in person.

The Parliamentary Commissioner may visit all units, headquarters, facilities or administrative agencies of the Bundeswehr at any time and without prior announcement – and may also do so outside Germany. This right is vested exclusively in the person of the Commissioner.

Field visits give the Commissioner opportunities to meet and talk with service personnel of all ranks and gain direct impressions of their circumstances, so building up an accurate picture of conditions within the Bundeswehr. Thanks to such visits, the Commissioner finds out above all about any difficulties servicewomen and men encounter in performing their everyday military duties, problems that relate to their training and equipment, and their worries and concerns, which are often not expressed fully, if at all, in submissions. This allows



The Parliamentary Commissioner for the Armed Forces visits the 381 Communication and Information Systems Support Battalion in Storkow. At a farewell ceremony around 100 service personnel were deployed on their mission to Mali.

the Parliamentary Commissioner to take preventive action by immediately passing on any important findings to the Federal Ministry of Defence.

The Parliamentary Commissioner is also able to obtain information by other means, making use of their rights to request reports on the exercise of disciplinary power in the Bundeswehr and to participate in criminal or disciplinary proceedings in court as an observer.

Powers to make proposals and recommendations

The Parliamentary Commissioner may give the units and agencies competent to deal with a certain matter an opportunity to settle it themselves. For instance, following the completion of an investigation that has revealed deficiencies or incorrect behaviour, they may request that certain measures be taken by the competent bodies to prevent the same errors being repeated in future. In addition to this, they may refer a matter to the authority responsible for instituting criminal or disciplinary proceedings.

The Parliamentary Commissioner's power to make proposals and recommendations enables them to be actively involved in the further development of *Innere Führung* in the forces. Their proposals and recommendations are not binding instructions or orders. The fact that the Parliamentary Commissioner's powers are limited to gathering information and making recommendations might suggest they are able to bring little real influence to bear. However, this is not true in practice: the existence of an independent parliamentary commissioner, to whom every member of the armed forces – from private to general – may have recourse, has a positive impact on the leadership behaviour of many superiors. Above all, the Parliamentary Commissioner's ability to call in higher authorities, up to and including the Federal Ministry of Defence, and to bring any deficiencies that are detected to the attention of the Bundestag in their annual and special reports, is of vital importance in this respect.



On board the A400 M in conversation with the crew of the Air Transport Wing in Wunstorf. The A400 M is also used for MedEvac operations to recover wounded and sick service personnel from mission areas.

Every servicewoman and man is able to contact the Parliamentary Commissioner for the Armed Forces directly with submissions that may relate to all issues of daily military life.

Servicewomen and men's right to petition the Parliamentary Commissioner

Anyone who serves in the armed forces has the right to contact the Parliamentary Commissioner individually without going through official channels. In exercising their right of petition, service-women and men can bring any matter that, in their subjective assessment, reflects wrong or unfair treatment to the attention of the Parliamentary Commissioner without having to observe specific time limits.

In contrast to complaints submitted under the Military Complaints Regulations, submissions do not have to be based on what is termed a 'grievance'. For this reason, they can refer to the entire spectrum of duty-related, personal and social problems service personnel may encounter in their everyday military routines. These include, for example, issues relating to the broad field of leadership (e.g. leadership style and behaviour, military training, and the application of disciplinary regulations, complaint regulations, regulations regarding the

representation of service personnel and duty-hour regulations), personnel management (e.g. questions about career paths, transfers, temporary duties or appraisals), and matters relating to health care, accommodation, clothing, welfare provision, pay regulations, entitlements on leaving the armed forces, work-life balance, women in the armed forces and reservists.

Service personnel do not necessarily have to contact the Parliamentary Commissioner themselves. Submissions about a servicewoman or man's concerns may also be sent in by comrades, elected spokespersons or family members – many relatives describe the family difficulties caused by service in the forces. However, the consent of the servicewoman or man in question is always obtained before the matter described in the submission is investigated.

All service personnel are informed about the functions and powers of the Parliamentary Commissioner when they begin their basic training, and again when they are transferred to their parent units (Type A General Publication 2600/2, 'Matters concerning the Parliamentary Commissioner for the Armed Forces', section 4). No one may be subjected to any disciplinary or discriminatory action because they have appealed to the Parliamentary Commissioner. They are protected by their right of petition. Of course, this right to petition the Parliamentary Commissioner does not cover assertions that are deliberately false, insulting or slanderous in nature. Anyone who submits a petition of this kind bears full responsibility under disciplinary regulations and criminal law. Nevertheless, in exercising their right of petition, service personnel are given broad scope

to express what are regarded as admissible views and opinions. The aim is to allow petitioners to unburden themselves without having to fear discrimination. They are protected against punitive measures even if their submissions are based on exaggerations, overhasty conclusions or emotional arguments. Civilian Bundeswehr employees cannot send submissions to the Parliamentary Commissioner. Instead, such submissions are forwarded to the Petitions Committee of the German Bundestag. However, matters made known to the Commissioner in this fashion may prompt them to take action. The same applies to information received from persons outside the Bundeswehr.

Civilian Bundeswehr employees are able to bring their concerns to the attention of the Bundestag's Petitions Committee.

As a rule, the review procedure for submissions is as follows: the Parliamentary Commissioner checks whether the matter brought to their attention in the submission suggests a violation of the basic rights of service personnel or the principles of *Innere Führung*. Should this be the case, the Parliamentary Commissioner requests comments from the agencies and units within the jurisdiction of the Defence Minister that appear best placed to conduct unbiased, expert, swift investigations into the matter, and are able to take remedial action if appropriate.

Where submissions touch on relations between superiors and subordinates in the forces, this tends for the most part to be a unit at the battalion (or a comparable) level. When it comes to legally complex or very serious matters, however, a higher level may also be involved. Not

infrequently, the Federal Ministry is called upon first to intervene should issues affect all the individual service branches, there be a need for amendments to fundamental legal provisions, or if matters of fundamental political significance are involved.

Once the Parliamentary Commissioner receives the comments and investigative records they have requested, they examine whether the investigations have been conducted properly, evidence has been given due weight and statements have been correctly assessed, and whether any misconduct has been appropriately sanctioned. Should this be the case, a reply is issued with the outcome of the review.



In the vast majority of cases, the investigations and comments of the agencies and units concerned satisfy the requirements that are to be placed on them from the Parliamentary Commissioner's point of view. Nevertheless, there are many cases in which another, superior agency or unit is called in to examine the matter yet again.

It is not rare for even the Federal Minister of Defence to be asked by the Parliamentary Commissioner to comment on the matter at hand.

If, parallel to a petition, proceedings under military complaints regulations, disciplinary regulations, criminal law or civil administrative law are pending in the same matter, it is standard practice for the Parliamentary Commissioner to respect the separation of powers and generally not interfere by making their own assessment of the case.

Obviously, the Parliamentary Commissioner's performance of their two functions – exercising oversight over the Bundeswehr and reviewing submissions from service personnel – is not always free of conflict. As an organ of parliamentary oversight, it is incumbent upon the Commissioner to ensure the constitution and legislation are adhered to. In this context, the observance of regulations that are designed to ensure the operational readiness of the Bundeswehr occasionally clashes with servicewomen and men's personal interests.



A point of contact for the forces:
all servicewomen and men can write
to the Parliamentary Commissioner
about their concerns.

The Parliamentary Commissioner's annual reports direct the attention of Parliament and the wider public to matters that concern servicewomen and men individually, and the armed forces as a whole. These reports are an early warning system for the Bundestag.

The Parliamentary Commissioner's annual reports

The Parliamentary Commissioner is required to submit an annual report to the Bundestag for each calendar year. There are no detailed guidelines regarding its content.

The Commissioner must therefore base their report on the dual function assigned to them by the constitution, i.e. that of exercising oversight and reviewing submissions. The report details many shortcomings and offers suggestions as to how they could be remedied, while at the same time also describing positive developments.

In addition to monitoring the executive's adherence to the constitution and legislation, the purpose of parliamentary

oversight is to enable Parliament to draw directly on its own findings, so highlight difficulties and unwelcome developments and, on this foundation, put forward proposals and suggestions for political action. In view of this understanding of their role, the Parliamentary Commissioner therefore uses their annual reports to address violations of basic rights and the principles of *Innere Führung*, as well as which they look in depth at the general parameters under which the Bundeswehr operates and service personnel's duties are carried out. In particular, the annual report provides important indications as to the impacts of existing laws and regulations where they touch upon the principles of *Innere Führung*. The reports thus act as a kind of early warning system for Parliament. The Parliamentary Commissioner's annual reports are used by the Bundestag and its Defence Committee as a basis for discussion of and decisions about the in-



The Parliamentary Commissioner for the Armed Forces speaks in the German Bundestag on 19 June 2020 about the 2019 Annual Report.

In the background on the government bench (centre): Federal Minister of Defence Annegret Kramp-Karrenbauer.

ternal development of the Bundeswehr. In consequence, their reports help to draw Parliament's attention to the particular concerns and worries not only of individual servicewomen and men, but also of the armed forces as a whole. The Parliamentary Commissioner's annual report has always met with a great deal of media interest. The coverage it gets does much to inform the general public about the preoccupations and problems of the Bundeswehr, and promote public acceptance of any remedial action that may be needed. At the same time, this coverage helps to focus Parliament's attention on the report.

Given that the annual report examines negative incidents and trends in the Bundeswehr, there is a danger of its treatment by the media being one-sidedly negative and, occasionally, sensationalist. However, this cannot be a reason for the Parliamentary Commissioner not to fulfil their statutory mandate by providing a true and thorough account of their conclusions.

The annual report is presented to Parliament. The report on the previous calendar year is usually submitted to the President of the German Bundestag at the start of the following year and published as a Bundestag printed paper. Immediately after publication, it is distributed among service personnel. Following its first reading in the plenary, the report is referred to the Defence Committee,

Presentation of the Annual Report 2020: Eva Högl presents Bundestag President Wolfgang Schäuble (CDU/CSU) with the report in the Reichstag Building, in the presence of the Defence Committee's spokespersons from the parliamentary groups, along with its Chairman, Wolfgang Hellmich (SPD) (second from left).

which calls on the Federal Ministry of Defence to comment upon it.

Once the Ministry's comments have been received, the report is deliberated on in the Defence Committee. In the course of these deliberations, the Federal Ministry of Defence and the Parliamentary Commissioner have opportunities to elucidate and expand upon their views. The Defence Committee concludes its deliberations by drafting a report and a recommendation for a decision, both of which are referred to the plenary for the report's second public reading and the adoption of a final decision. During the two plenary debates, the Parliamentary Commissioner is given leave to speak if this is requested by one of the parliamentary groups or at least five per cent of the Members of the Bundestag. This is regularly the case.

In its comments on the annual report, the Federal Ministry of Defence also makes remarks on the measures required to remedy the deficiencies identified by the Parliamentary Commissioner. Parliament has itself informed about the progress made in this respect a year later.



Servicewomen and men have various options open to them to protect their own rights. Particular rules apply for reports, remonstrances, complaints and petitions.

Submissions to the Parliamentary Commissioner and other forms of legal protection

Sending a submission to the Parliamentary Commissioner does not preclude service personnel from resorting to other forms of legal protection or redress in relation to the same matter such as reports, remonstrances (written objections not subject to formal requirements), complaints under the Military Complaints Regulations or petitions addressed to the Petitions Committee of the German Bundestag. When a submission is sent to the Parliamentary Commissioner, however, any time limits set, for example on complaints filed in accordance with the Military Complaints Regulations, continue to apply. Especially when it comes to disciplinary and administrative matters, service personnel must therefore observe the statutory time limits if they do not wish to lose their formal options to obtain legal protection.

Since service personnel may request parliamentary reviews of their submissions both by the Parliamentary Commissioner and by the Petitions Committee, these two organs of the Bundestag have to work together. They do so in accordance with special rules of procedure which, in order to avoid duplication and ensure the consistency of decisions, provide for them to notify each other reciprocally of any developments. If the Petitions Committee and the Parliamentary Commissioner decide to review the same matter, the latter takes the lead in processing it. Here, reference must also be made to the Military Personnel Representation Act. The key expression of service personnel's right to be represented is the election of spokespersons by each of the individual rank groups. These spokespersons are supposed to foster cooperation in a spirit of trust between superiors and their subordinates, and strengthen comradeship in the forces.



Reciprocal notification: the Parliamentary Commissioner and the Petitions Committee inform each other about the submissions they have received.

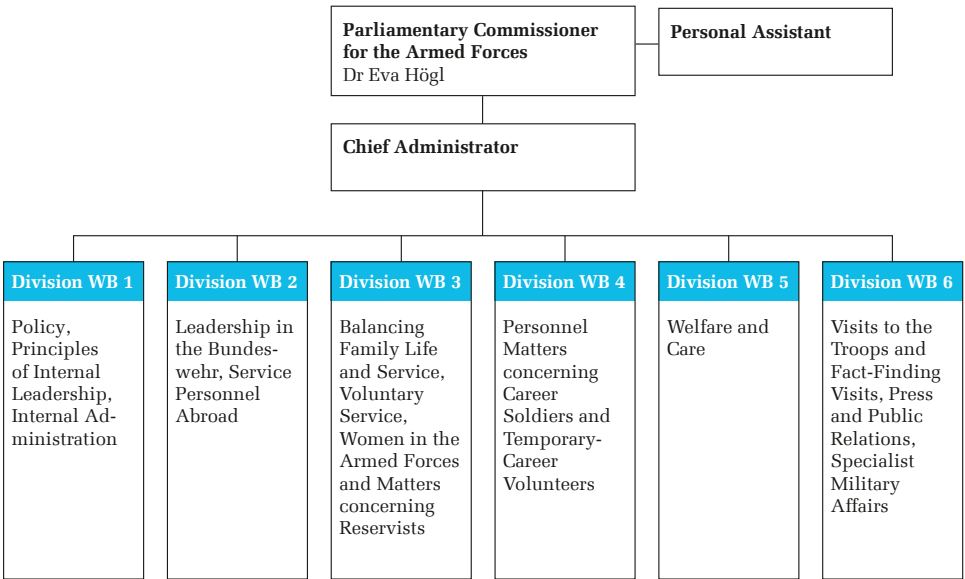
Around 60 staff of the Bundestag Administration support the Parliamentary Commissioner in their work overseeing the Bundeswehr.

The staff of the Parliamentary Commissioner for the Armed Forces

When the Office of the Parliamentary Commissioner for the Armed Forces was created, it was assumed the Parliamentary Commissioner would require only a small personal staff in order to put them in a position to perform their statutory functions. However, owing to the rapid increase in the number of submissions to be reviewed, their Office soon had to be reinforced with more personnel. This was the only way to ensure the various Parliamentary Commissioners were able to perform their function exercising parliamentary oversight over an organisation as large as the Bundeswehr.

At present, the Office of the Parliamentary Commissioner for the Armed Forces has a staff of 60, just over half of whom are higher-intermediate and higher-service personnel directly involved in reviewing matters that have been brought to the Parliamentary Commissioner's attention.

The Office's staff are members of the Bundestag Administration, within which they form a separate directorate. As far as their work in the specialised field of parliamentary oversight is concerned, they come under the sole supervision of the Parliamentary Commissioner; as far as general service regulations are concerned, they are supervised by the Secretary-General of the German Bundestag as the Administration's highest official. The Office of the Parliamentary Commissioner for the Armed Forces is headed by a Chief Administrator and, in accordance with the principles of ministerial organisation, is subdivided into divisions, the number and competences of which reflect the Office's tasks and priorities. Currently, it has six divisions.



**Organisational structure
of the Office of the
Parliamentary Commissioner
for the Armed Forces**



Since the position was created, the Bundestag has elected thirteen Parliamentary Commissioners. An amendment to the Act on the Parliamentary Commissioner for the Armed Forces in 1990 also made it possible for candidates to be elected to this post who have not done military service. The Commissioner's Office has lost none of its relevance over the years: it merely has to deal with different problems and questions.

The Parliamentary Commissioners since 1959

1959–1961

Helmuth von Grolman

Helmuth von Grolman (6 November 1898–18 January 1977) served as a soldier in the First World War before completing an apprenticeship as a bank clerk and studying economics. He joined the Reichswehr in 1924, and was promoted to the rank of lieutenant general in 1944. After the Second World War, von Grolman became State Secretary in the Lower Saxon Ministry for Expellees in 1955. On 19 February 1959, the Bundestag elected Grolman, now a member of the CDU, as the first Parliamentary Commissioner for the Armed Forces by 363 votes to 16 with 32 abstentions. He took up his work on 3 April 1959. His first annual report, in which he also criticised inadequate equipment and unsatisfactory training opportunities, led to the establishment of a subcommittee of the Defence Committee intended to deliberate on the rights held by the Parliamentary Commissioner. The subcommittee reached agreement with von Grolman that the Parliamentary Commissioner would not comment on political decisions taken by Parliament and the Government. On 14 June 1961, he handed in his resignation, which was accepted the same day.

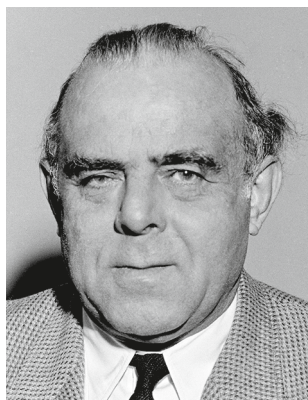


1961–1964

Hellmuth Guido Heye

Hellmuth Guido Heye (9 August 1895–10 November 1970) joined the Imperial Navy in 1914 and became a vice-admiral in 1944. After the Second World War, he went into politics and was a Member of the Bundestag for the CDU from 1953 to 1961.

Heye was elected as Parliamentary Commissioner for the Armed Forces unanimously on 8 November 1961, and was sworn in and took office the same day. At the beginning of his term of office, the Bundeswehr came under suspicion of harbouring training officers who were responsible for the bullying of recruits. A field visit to Nagold gave Heye the strong impression that conditions there were inhumane. He warned against an exaggerated esprit de corps among the troops and believed the principles of *Innere Führung* were being called into question by some high-ranking officers. The Federal Ministry of Defence felt able to disprove his claims 'point by point'; after a number of accusations were made against Heye, some of which came from parliamentary figures, he handed in his resignation on 10 November 1964, and it was accepted the following day.



1964–1970

Matthias Hoogen

The lawyer Matthias Hoogen (25 June 1904–13 July 1985) was called up for service in the Wehrmacht in 1940. After the War, he was a member of the Bizone Economic Council from 1947 to 1949; he then sat in the Bundestag as a Member for the CDU from 1949 to 1964, chairing the Committee on Legal Affairs from 1953 to 1964.

On 11 December 1964, the Bundestag elected him as the third Parliamentary Commissioner for the Armed Forces by 270 votes to 174 with 11 abstentions. He was sworn in and took office that same day. Hoogen's term of office saw several fatal shooting accidents that, in his view, highlighted gaps in the safety regulations and a tendency for them to be applied laxly. He regarded it as his role to assist and support Parliament in scrutinising policymaking and monitoring government business, and worked on a substantive definition of *Innere Führung* for the Bundeswehr. In his reports, he warned on several occasions of an impending shortage of qualified trainers.



1970–1975

Fritz Rudolf Schultz

Fritz Rudolf Schultz (19 February 1917–2 March 2002) fought in the Second World War from 1939 to 1945, reaching the rank of major of the reserve. He was elected to the *Land* Parliament of Rhineland-Palatinate for the FDP in 1953, and became its second vice-president in 1955. He was a Member of the Bundestag for the FDP from 1957 to 1970.

On 11 March 1970, the Bundestag elected Fritz Rudolf Schultz Parliamentary Commissioner for the Armed Forces by 268 votes to 127 with 50 abstentions. He was sworn in and took office that same day. His period in office came at a time when German society was searching for new frames of reference. In his first annual report, Schultz noted the worrying spread of drug-use within the Bundeswehr. In addition to this, he had to deal with a rising number of applications from conscientious objectors who wished to be exempted from military service. Towards the end of his term of office, Schultz evinced disappointment at the parliamentary responses to his work. At the same time, he called for the Act on the Parliamentary Commissioner for the Armed Forces to be revised.



1985–1990

Willi Weiskirch

1975–1985

Karl Wilhelm Berkhan

The mechanical engineer Karl Wilhelm Berkhan (8 April 1915–9 March 1994) did compulsory labour service in 1939, then served as a soldier during the Second World War until 1945. He studied education after the War, and became a technical school teacher in 1947.

He was a member of the Hamburg City Parliament from 1953 to 1957, and sat in the Bundestag for the SPD from 1957 to 1975. Between 1969 and 1975, he was Parliamentary State Secretary to the Federal Minister of Defence.

On 19 March 1975, the Bundestag elected Berkhan as the fifth Parliamentary Commissioner for the Armed Forces by 418 votes to 21 with 21 abstentions. He was sworn in and took office the same day. On 17 January 1980, Berkhan was re-elected by 416 votes to 30 with six abstentions and two invalid votes. Among other things, Berkhan warned that the discussion of *Innere Führung* in the Bundeswehr should not become an end in itself, and that leadership and civic education should not be neglected.



The journalist Willi Weiskirch (1 January 1923–11 September 1996) served in the forces from 1942 to 1945, then studied journalism, history and philosophy after the War. He became editor-in-chief of *Wacht*, the central organ of the Federation of German Catholic Youth, in 1952 and subsequently took charge of the magazine *Mann in der Zeit*. He was the spokesman for the CDU's federal headquarters from 1970 to 1976, held a seat in the Bundestag for the CDU from 1976 to 1985 and was the chairman of the CDU/CSU parliamentary group's working group on defence.

On 14 March 1985, the Bundestag elected Weiskirch Parliamentary Commissioner for the Armed Forces by 366 votes to 42 with 24 abstentions and one invalid vote. He took office on 20 March 1985, and was sworn in on 28 March 1985. Weiskirch attacked some of the everyday military customs that had come to be regarded as 'necessities' even though they endangered the health or lives of service personnel. In the course of the upheavals in the German Democratic Republic (GDR), he argued for an 'open exchange of ideas between the Bundeswehr and the National People's Army'.



1990–1995

Alfred Biehle

Alfred Biehle (15 November 1926–29 October 2014) fought as a soldier in the Second World War during the years 1944–1945. After the War, he was employed as an industrial administrator and began working as a journalist in 1950. He joined the Young Union (the CDU/CSU youth organisation) 1948 and the CSU in 1950. He held various positions in local politics up until 1990, and was a Member of the German Bundestag for the CSU from 1969 to 1990, sitting on its Defence Committee, which he chaired from 1982 to 1990.

On 27 April 1990, the Bundestag elected Biehle Parliamentary Commissioner for the Armed Forces by 275 votes to 200 with 16 abstentions. He was sworn in and took office that same day. Biehle's term of office was dominated by the accession of the GDR to the Federal Republic of Germany and the incorporation of parts of the National People's Army into the Bundeswehr. The Bundeswehr was also required to implement massive cuts to its force strength and get by with significantly less funding, as well as assuming a wide range of new functions outside Germany.



1995–2000

Claire Marienfeld-Czesla

The pharmaceutical technical assistant Claire Marienfeld-Czesla (b. 21 April 1940) was the first woman to hold the office of Parliamentary Commissioner for the Armed Forces.

She joined the CSU in 1972 and the CDU in 1976, then held various political positions up until 1990, serving as a member of Detmold Town Council and the town's deputy mayor. She sat in the Bundestag for the CDU from 1990 to 1995, and was a member of the Parliamentary Assembly of the CSCE/OSCE from 1992 to 1995.

On 30 March 1995, the Bundestag elected Marienfeld-Czesla Parliamentary Commissioner for the Armed Forces by 459 votes to 139 with 46 abstentions and two invalid votes. She took office on 28 April 1995 and was sworn in on 11 May 1995. She placed particular emphasis on pastoral care and interpersonal relationships in the armed forces. Marienfeld-Czesla also devoted considerable attention to the increasing numbers of incidents inspired by far-right ideas and the proliferation of accidents in which personnel were injured while handling weapons.



2000–2005

Willfried Penner

After studying law and obtaining a doctorate, Willfried Penner (b. 25 May 1936) worked as a public prosecutor from 1965. He joined the SPD in 1966, going on to hold various political positions. He sat in the Bundestag as a Member for the SPD from 1972 to 2000, and was Parliamentary State Secretary to the Federal Minister of Defence from 1980 to 1982. He served as deputy chairperson of the SPD parliamentary group in the Bundestag between 1985 and 1991, and was the chairperson of the Committee on Internal Affairs from 1995 to 2000.

On 14 April 2000, the Bundestag elected Penner as the ninth Parliamentary Commissioner for the Armed Forces by 424 votes to 77 with 42 abstentions and two invalid votes. He was sworn in and took office on 11 May 2000. Penner's term of office was overshadowed by protracted reforms and a restructuring of the Bundeswehr. For the first time, women were able to join up as volunteers in all parts of the forces. Subsequently, he concentrated on the problems service personnel faced trying to balance family life with their military duties.



2005–2010

Reinhold Robbe

After training as a commercial clerk, Reinhold Robbe (b. 9 October 1954) initially worked as a publishing administrator at the Rheiderland newspaper, then did civilian service in 1975–1976. He was the works council chairman of Leer Mental Disability Support Association from 1976 to 1986, and press spokesman and manager for the Weser/Ems district branch of the SPD between 1986 and 1994. He has held various political positions since 1976 and was elected as a Member of the German Bundestag in 1994. He was a member of the Defence Committee from 1998 to 2005, becoming its chairman in 2002.

On 14 April 2005, the Bundestag elected Robbe as Parliamentary Commissioner for the Armed Forces by 307 votes to 276 with 15 abstentions and one invalid vote. He was sworn in and took office on 12 May 2005. The demanding process of force transformation and dangerous foreign missions were central topics in Robbe's annual reports. It was a particular concern for Robbe to gain an unvarnished view of the forces, which he did above all by making numerous unannounced visits.



2010–2015

Hellmut Königshaus

Hellmut Königshaus (b. 28 July 1950) did military service as a temporary-career volunteer from 1970 to 1972 and then studied law until 1977. Between 1980 and 2004, he was a judge, a civil servant in the Berlin Senate Department for Urban Development and Environmental Protection, and the general agent of a family-owned company. Königshaus joined the FDP in 1985, since when he has held various leading positions in the party. He was a Member of the German Bundestag from 2004 to 2010, sitting on the Defence Committee from 2009. On 25 March 2010, the Bundestag elected Königshaus Parliamentary Commissioner for the Armed Forces by 375 votes to 163 with 41 abstentions. Königshaus criticised defects in the equipment service personnel were supplied with for foreign missions. Furthermore, he identified deficiencies in training, and demanded steps to improve the balance between family life and personnel's military duties as the Bundeswehr was reoriented to meet new challenges. He called on the forces to care more effectively for service personnel who suffered physical or mental harm on deployments abroad.



2015–2020

Hans-Peter Bartels

Hans-Peter Bartels (b. 7 May 1961) holds a doctorate in political science, did military service in 1980–1981 and started his career as a journalist on the Kieler Rundschau weekly newspaper. From 1988 to 1998 he was employed at the State Chancellery of the Land of Schleswig-Holstein before being elected directly to the Bundestag from the Kiel constituency five times for the SPD from 1998. He sat in Parliament until his appointment as Parliamentary Commissioner for the Armed Forces on 20 May 2015, immediately prior to which he was serving as chairperson of the Defence Committee. Hans-Peter Bartels was voted the twelfth Parliamentary Commissioner for the Armed Forces by a large parliamentary majority (532 votes for, 38 against and 28 abstentions) on 18 December 2014. Demands for full resourcing with equipment, greater reserves of personnel and the more rapid refurbishment of barracks were among the core topics for his work. In addition to this, however, he also focussed on how the European armed forces are growing together and the Bundeswehr's role in this process.



Since 2020

Eva Högl

Legal expert Dr Eva Högl (b. 6 January 1969) has been Parliamentary Commissioner for the Armed Forces of the German Bundestag since 25 May 2020. From 2009 until 2020 she was a Member of the German Bundestag, elected directly to represent the constituency of Berlin-Mitte. From 2013 until 2020 she was Deputy Chairwoman of the SPD parliamentary group, responsible for internal affairs and legal affairs. Born in Lower Saxony, she studied law at universities in Osnabrück and Leiden in the Netherlands. From 1999 until 2009 she worked in the Federal Ministry of Labour and Social Affairs, latterly as a Head of Division. Eva Högl is the second woman to hold the office of Parliamentary Commissioner for the Armed Forces. She was elected by a large majority on 7 May 2020. With her legal background she sees herself as an advocate for service personnel and as a mediator between the troops and Parliament. In addition to deployments abroad and dealing with the Covid pandemic, key topics of her time in office include equipment, infrastructure, women, right-wing extremism and personnel management at a time of skilled worker shortages.





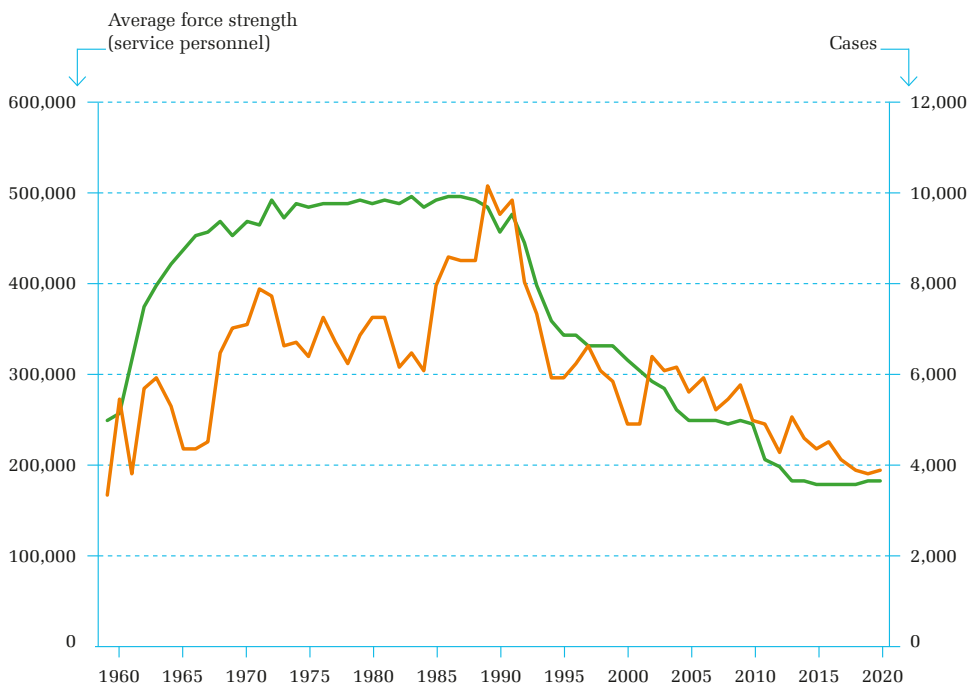
Annex

Development of case numbers between 1959 and 2020

Year under review	Total number of cases recorded	Average strength of the Bundeswehr (active service personnel)	Rate of submissions per thousand active service personnel
1959	3,368	248,800	13.5
1960	5,471	258,080	21.2
1961	3,829	316,090	12.1
1962	5,736	374,766	15.3
1963	5,938	401,337	14.8
1964	5,322	424,869	12.5
1965	4,408	437,236	10.1
1966	4,353	454,569	9.6
1967	4,503	456,764	9.9
1968	6,517	472,070	13.8
1969	7,033	455,114	15.5
1970	7,142	468,484	15.2
1971	7,891	466,889	16.9
1972	7,789	492,828	15.8
1973	6,673	472,943	14.1
1974	6,748	490,053	13.8
1975	6,439	486,206	13.2
1976	7,319	488,616	15.0
1977	6,753	491,424	13.7
1978	6,234	491,481	12.7
1979	6,884	492,344	14.0
1980	7,244	490,243	14.8
1981	7,265	493,089	14.7
1982	6,184	490,729	12.6
1983	6,493	495,875	13.1
1984	6,086	487,669	12.5
1985	8,002	495,361	16.2
1986	8,619	495,639	17.4
1987	8,531	495,649	17.2
1988	8,563	494,592	17.3
1989	10,190	486,825	20.9
1990	9,590	458,752	20.9

Statistics

Year under review	Total number of cases recorded	Average strength of the Bundeswehr (active service personnel)	Rate of submissions per thousand active service personnel
1991	9,864	476,288	20.7
1992	8,084	445,019	18.2
1993	7,391	399,216	18.5
1994	5,916	361,177	16.4
1995	5,979	344,690	17.3
1996	6,264	342,870	18.3
1997	6,647	332,013	20.0
1998	6,122	330,914	18.5
1999	5,885	331,148	17.8
2000	4,952	318,713	15.5
2001	4,891	306,087	16.0
2002	6,436	294,800	21.8
2003	6,082	283,723	21.4
2004	6,154	263,990	23.3
2005	5,601	251,722	22.3
2006	5,918	249,964	23.7
2007	5,276	248,995	21.2
2008	5,474	247,619	22.1
2009	5,779	249,900	23.1
2010	4,993	245,823	20.3
2011	4,926	206,091	23.9
2012	4,309	197,880	21.8
2013	5,095	184,012	27.7
2014	4,645	182,703	25.4
2015	4,344	179,633	24.2
2016	4,560	177,800	25.6
2017	4,173	178,881	23.3
2018	3,939	179,791	21.9
2019	3,835	182,219	21.0
2020	3,907	183,969	21.2
Total	380,558		



**Comparison of cases
with average force strength
since 1959**

— Average force strength
(service personnel)
— Cases

I.

Excerpt from the Basic Law for the Federal Republic of Germany of 23 May 1949 (*Federal Law Gazette I*, p. 1), last amended by Articles 1 and 2 sentence 2 of the Act of 29 September 2020 (*Federal Law Gazette I*, p. 2048)

Article 17 [Right of petition]

Every person shall have the right individually or jointly with others to address written requests or complaints to competent authorities and to the legislature.

Article 17a [Restriction of basic rights in specific instances]

(1) Laws regarding military and alternative service may provide that the basic right of members of the Armed Forces and of alternative service freely to express and disseminate their opinions in speech, writing and pictures (first clause of paragraph (1) of Article 5), the basic right of assembly (Article 8), and the right of petition (Article 17) insofar as it permits the submission of requests or complaints jointly with others, be restricted during their period of military or alternative service.

Legal foundations

II.

Act on the Parliamentary Commissioner for the Armed Forces (Act pursuant to Article 45b of the Basic Law – WBeauftrG) in the version of the Announcement of 16 June 1982 (*Federal Law Gazette I*, p. 677), most recently amended by Article 15(68) of the Act to Restructure Civil Service Law of 5 February 2009 (*Federal Law Gazette I*, p. 160)

(2) Laws regarding defence, including protection of the civilian population, may provide for restriction of the basic rights of freedom of movement (Article 11) and inviolability of the home (Article 13).

Article 45a [Committees on Foreign Affairs and Defence]

(1) The Bundestag shall appoint a Committee on Foreign Affairs and a Defence Committee.

(2) The Defence Committee shall also have the powers of a committee of inquiry. On the motion of one quarter of its members it shall have the duty to make a specific matter the subject of inquiry.

(3) Paragraph (1) of Article 44 shall not apply to defence matters.

Article 45b [Parliamentary Commissioner for the Armed Forces]

A Parliamentary Commissioner for the Armed Forces shall be appointed to safeguard basic rights and to assist the Bundestag in exercising parliamentary oversight over the Armed Forces. Details shall be regulated by a federal law.

of the basic rights of service personnel or of the principles of leadership development and civic education. The Commissioner shall not take action under the first sentence of this paragraph if the Defence Committee has made the matter the subject of its own deliberations.

Section 1 Constitutional Status; Tasks

(1) In the exercise of parliamentary oversight, the Commissioner shall perform his or her duties as an auxiliary organ of the Bundestag.

(2) The Commissioner shall investigate specific matters upon instructions from the Bundestag or the Defence Committee. Instructions can only be issued if the Defence Committee does not make the matter a subject of its own deliberations. The Commissioner may request that the Defence Committee issue instructions to investigate specific matters.

(3) The Commissioner shall, on his or her own initiative and at his or her due discretion, take action when, in the exercise of his or her right pursuant to Section 3(4), through information received from Members of the Bundestag, through petitions pursuant to Section 7 or in any other way, circumstances come to his or her attention that suggest a violation

Section 2 Reporting Duties

(1) The Commissioner shall submit to the Bundestag a written overall report for the calendar year (Annual Report).

(2) He or she may, at any time, submit individual reports to the Bundestag or the Defence Committee.

(3) When the Commissioner acts upon instructions, he or she shall, upon request, submit an individual report on the results of his or her investigation.

Section 3 Official Powers

In performing the tasks assigned to him or her, the Commissioner shall have the following powers:

1. He or she may demand information and access to records from the Federal Minister of Defence and all the Minister's subordinate agencies and personnel. These rights can only be denied to him or her when this is required for compelling reasons of secrecy.

The decision to deny these rights shall be taken by the Federal Minister of Defence personally or his or her permanent official deputy; the Federal Minister of Defence shall state the reasons for any such decision before the Defence Committee. On the basis of instructions pursuant to Section 1 (2) and in the case of a petition based on a complaint by the petitioner, the Commissioner shall have the right to hear the petitioner as well as witnesses and experts. These persons shall be reimbursed pursuant to the Judicial Remuneration and Compensation Act.

2. He or she may give the agencies concerned the opportunity to settle a matter.
3. He or she may refer a matter to the authority competent for the institution of criminal or disciplinary proceedings.
4. He or she may, at any time, visit any units, headquarters, agencies and authorities of the Bundeswehr and their installations even without prior announcement. This right shall be vested exclusively in the person of the Commissioner. The second and third sentences of paragraph (1) of this section shall apply *mutatis mutandis*.

5. He or she may request both summary reports from the Federal Minister of Defence on the exercise of disciplinary power in the armed forces and statistical reports from the competent federal and *Land* authorities on the administration of criminal justice whenever the armed forces or their service personnel are affected.
6. In the case of criminal or disciplinary proceedings, he or she may attend court proceedings even when the public is excluded. He or she shall be given access to records to the same extent as the public prosecutor or the representative of the initiating authority. The right pursuant to the first sentence of this paragraph shall also apply in matters of request and complaint proceedings under the Military Discipline Code and the Military Complaints Regulations before courts that have jurisdiction over military disciplinary offences and in proceedings before administrative courts that relate to his or her area of responsibility; in such proceedings, he or she shall have the same right of access to records as a party to the proceedings.

Section 4 Administrative Assistance

Courts and administrative authorities of the Federation, the *Länder* and the municipalities shall be obliged to render the Commissioner administrative assistance in the conduct of necessary investigations.

Section 5 General Guidelines; Exemption from Instructions

(1) The Bundestag and the Defence Committee may issue general guidelines for the work of the Commissioner.

(2) Notwithstanding Section 1(2), the Commissioner shall not be subject to instructions.

Section 6 Obligation of Presence

The Bundestag and the Defence Committee may at any time demand the presence of the Commissioner.

Section 7 Service Personnel's Right of Petition

Every member of the armed forces shall have the right to contact the Commissioner directly without going through official channels. He or she shall not be disciplined or discriminated against because of his or her petition to the Commissioner.

Section 8 Anonymous Petitions

Anonymous petitions shall not be dealt with.

Section 9 Confidentiality of Petitions

Where the Commissioner takes action in response to a petition, it shall be left to his or her discretion to disclose the fact of a petition and the name of the petitioner. He or she shall refrain from their disclosure if the petitioner so wishes and compliance with this wish is not barred by legal duties.

Section 10 Obligation of Secrecy

(1) The Commissioner is obliged, even once his or her term of office has ended, to maintain secrecy regarding matters that have come to his or her official knowledge. This does not apply to official communications or to matters that are known to the general public or that do not require secrecy in view of the level of importance accorded to them.

(2) The Commissioner shall not, even once his or her term of office has ended, give any evidence on such matters before a court or out of court, or make statements without permission. This permission shall be given by the President of the Bundestag in agreement with the Defence Committee.

(3) Permission to give evidence as a witness shall not be denied unless it would be to the detriment of the public good of the Federation or of one of the German *Länder*, or it would severely jeopardise or considerably impede the performance of public duties.

(4) This shall not affect the statutory obligation to report criminal offences and to advocate the preservation of the free democratic basic order where it is jeopardised.

Section 11

(Repealed)

Section 12 Obligation of Federal and Land Authorities to Inform the Commissioner

The judicial and administrative authorities of the Federation and the *Länder* shall be obliged to inform the Commissioner about the institution of proceedings, the preferment of a public charge, any investigations ordered in disciplinary proceedings and the outcome of such proceedings, when the matter has been referred to one of these authorities by the Commissioner.

Section 13 Election of the Commissioner

The Bundestag shall elect the Commissioner by secret ballot with a majority of its Members. Candidates may be put forward by the Defence Committee, by the parliamentary groups and by as

many Members of the Bundestag as are required for the formation of a parliamentary group pursuant to the Rules of Procedure. No debate shall take place.

Section 14 Eligibility; Term of Office; Ban on Practice of Another Profession; Oath; Exemption from Military Service

(1) Every German who is entitled to be elected to the Bundestag and has attained the age of 35 shall be eligible for the office of Commissioner.

(2) The term of office of the Commissioner shall be five years. Re-election shall be admissible.

(3) The Commissioner may not hold any other salaried office, engage in any trade, practise any profession, belong to the management or the supervisory board of any enterprise carried on for profit, or be a member of a government or a legislative body of the Federation or a *Land*.

(4) On assuming office, the Commissioner shall take the oath of office provided for in Article 56 of the Basic Law before the Bundestag.

(5) For the duration of his or her term of office, the Commissioner shall be exempt from military service.

Section 15 Legal Status of the Commissioner; Beginning and End of Term of Office

(1) Pursuant to the provisions of this Act, the Commissioner holds an office under public law. The President of the Bundestag shall appoint the person elected.

(2) The Commissioner's term of office shall begin when his or her letter of appointment is handed over or, should the oath be taken at an earlier date (Section 14(4)), at the time when the oath is taken.

(3) The Commissioner's term of office shall end, apart from the termination of his or her tenure pursuant to Section 14(2) or through death,

1. upon his or her dismissal,
2. upon his or her resignation.

(4) Upon the request of the Defence Committee, the Bundestag may instruct its President to dismiss the Commissioner. This decision shall require the approval of the majority of the Members of the Bundestag.

(5) The Commissioner may resign at any time. The President of the Bundestag shall announce the resignation.

Section 16 Seat of the Commissioner; Chief Administrator; Staff; Budget

(1) The seat of the Commissioner shall be attached to the Bundestag.

(2) The Commissioner shall be supported by a Chief Administrator. Additional personnel shall assist the Commissioner in the execution of his or her duties. The civil servants attached to the Commissioner shall be civil servants of the Bundestag pursuant to Section 176 of the Act on Federal Civil Servants of 3 January 1977 (*Federal Law Gazette I*, pp. 1, 795, 842), most recently amended by Section 27 of the Act of 26 June 1981 (*Federal Law Gazette I*, p. 553). The Commissioner shall be the superior of the personnel assigned to him or her.

(3) The necessary personnel and equipment made available to the Commissioner for the performance of his or her functions shall be detailed in a separate section of the Bundestag budget.

Section 17 Representation of the Commissioner

(1) If the Commissioner is prevented from performing his or her functions, and from the end of his or her term of office to the beginning of the term of office of his or her successor, the Chief Administrator shall exercise the rights of the Commissioner except for the right pursuant to Section 3(4). Section 5(2) shall apply *mutatis mutandis*.

(2) If the Commissioner is prevented from exercising his or her office for more than three months, or when more than three months have elapsed after the end of the Commissioner's term of office without the term of office of a successor having commenced, the Defence Committee may authorise the Chief Administrator to exercise the right pursuant to Section 3(4).

Section 18 Official Emoluments; Other Payments

(1) From the beginning of the calendar month in which he or she takes office to the end of the calendar month in which his or her term of office ends, the Commissioner shall be paid official emoluments. Section 11(1)(a) and (b) of the Federal Ministers Act shall apply *mutatis mutandis* with the proviso that the Commissioner's salary and local allowance shall be 75 per cent of the salary and local allowance of a federal minister. The emoluments shall be paid monthly in advance.

(2) In all other respects, Section 11(2) and (4) and Sections 13 to 20 and 21a of the Federal Ministers Act shall apply *mutatis mutandis* with the proviso that, instead of a two-year term of office (Section 15(1) of the Federal Ministers Act), a five-year term of office shall apply.

III.

Excerpt from Type A General Publication 2600/2 – Matters concerning the Parliamentary Commissioner for the Armed Forces

The first sentence of this paragraph shall apply *mutatis mutandis* to a career soldier or temporary-career volunteer who has been appointed Commissioner with the proviso that, in the case of temporary-career volunteers where Section 18(2) of the Federal Ministers Act applies, the date of retirement shall be replaced by the termination of service.

(3) The provisions of the Federal Travel Expenses Act as published in the Notification of 13 November 1973 (*Federal Law Gazette I*, p. 1621), most recently amended by the Ordinance of 31 May 1979 (*Federal Law Gazette I*, p. 618), regarding the highest travel expense category, and the provisions of the Federal Removal Expenses Act in the version of 13 November 1973 (*Federal Law Gazette I*, p. 1628), most recently amended by Article VII of the Act of 20 December 1974 (*Federal Law Gazette I*, p. 3716), regarding removals necessary as a result of appointment or termination of office, shall apply *mutatis mutandis*.

Section 19

(Repealed)

Section 20

(Entry into Force)

Contents

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1 Constitutional position of the Parliamentary Commissioner for the Armed Forces

101. The Parliamentary Commissioner for the Armed Forces is appointed by the

German Bundestag to safeguard basic rights and act as an auxiliary organ of the Bundestag in the exercise of parliamentary oversight. The details are regulated in the Act on the Parliamentary Commissioner for the Armed Forces (Act pursuant to Article 45b of the Basic Law – WBeauftrG) in the version of the Announcement of 16 June 1982 (*Federal Law Gazette I*, p. 677), most recently amended by Article 15(68) of the Act to Restructure Civil Service Law of 5 February 2009 (*Federal Law Gazette I*, p. 160).

2 Tasks and powers of the Parliamentary Commissioner for the Armed Forces

2.1 Tasks

201. The Parliamentary Commissioner for the Armed Forces shall take action

- upon instructions from the Bundestag or the Defence Committee to examine certain matters,
- on her or his own initiative and at her or his due discretion when,
 - as a result of her or his visits pursuant to Section 3(4) WBeauftrG,
 - as a result of communications from Members of the German Bundestag,
 - as a result of petitions pursuant to Section 7 WBeauftrG
- or
- in any other way,

circumstances come to her or his attention that suggest a violation of the basic rights of service personnel or the principles of *Innere Führung*.

2.2 Powers

202. In performing the tasks assigned to her or him, the Parliamentary Commissioner for the Armed Forces shall have the following powers:

- a) She or he may demand information and access to records from the Federal Minister of Defence and all the Minister's subordinate agencies and personnel. These rights may only be denied for compelling reasons of secrecy. The decision to deny these rights shall be taken by the Federal Minister of Defence or her or his permanent official deputy.
- b) If instructed by the German Bundestag or the Defence Committee and in response to a petition, she or he may hear the petitioner, as well as witnesses and experts.
- c) She or he shall have the right to visit units, headquarters, agencies and authorities of the Federal Armed Forces and their installations at any time, even without prior notice. The right to make such visits shall be vested exclusively in the person of the Parliamentary Commissioner for the Armed Forces. This right shall also be held by the Chief Administrator if she or he is authorised to do so by

the Defence Committee. The exercise of this right may only be denied for compelling reasons of secrecy. To this end, the decision of the Federal Minister of Defence is to be obtained.

- d) She or he may also attend closed sessions of criminal courts or administrative courts that are concerned with her or his area of jurisdiction and military service courts. During such proceedings, she or he shall have the same right of access to records as the parties to the proceedings.
- e) She or he may give the authorities concerned an opportunity to settle the matter.
- f) She or he may refer a case to the authority responsible for the institution of criminal or disciplinary proceedings.

203. With the exception of the right to make unannounced visits pursuant to paragraph 202(c), the powers of the Parliamentary Commissioner for the Armed Forces may be exercised by her or his staff. Fact-finding visits conducted by her or his staff shall be announced in advance.

3 Procedural arrangements

3.1 General remarks

301. Matters concerning the Parliamentary Commissioner for the Armed Forces shall be dealt with as matters of

urgency. Should an extended period of time be required to deal with such matters, the Parliamentary Commissioner for the Armed Forces shall be informed of the progress made at appropriate intervals by the agency that has to comment on the matter. All the agencies tasked with dealing with these matters must treat them as secret and confidential. This shall also apply if a matter concerning the Parliamentary Commissioner is forwarded through official channels or to multiple agencies. Should doubts arise as to whether compelling reasons of secrecy demand the denial of a request when the Parliamentary Commissioner for the Armed Forces requests information or access to records, or during a visit, a decision of the Federal Minister of Defence is to be obtained immediately. The Parliamentary Commissioner shall be informed of the decision reached.

3.2 Processing

302. If the Parliamentary Commissioner for the Armed Forces has written personally to members of the Bundeswehr, the individual to whom the letter has been addressed shall reply. If the Commissioner has written to an agency of the Bundeswehr, the head of the agency shall reply. As a matter of principle, final comments shall be signed by the agency management.

303. If the Parliamentary Commissioner for the Armed Forces has written to agencies of the Bundeswehr, the

agency dealing with the matter and able to provide information must issue a confirmation of receipt.

304. Investigations that are required shall be conducted by the superior competent to do so in each case. Affected or accused persons who are named in the petition are not to be tasked with any such investigation. Any deficiencies identified shall be remedied. The same shall apply if an agency of the Federal Armed Forces is tasked by the Federal Ministry of Defence (FMoD) with answering a request from the Parliamentary Commissioner for the Armed Forces.

305. The processing of matters concerning the Parliamentary Commissioner for the Armed Forces within the Federal Ministry of Defence shall be guided by the relevant provisions of the Supplementary Rules of Procedure of the Federal Ministry of Defence (GO-BMVG).

306. Should superiors of a petitioner be asked by the Parliamentary Commissioner for the Armed Forces to comment, they shall arrange for the facts of the matter to be reviewed and shall convey the results of the investigation, together with their own comments, to the Parliamentary Commissioner for the Armed Forces.

307. The documents compiled in the scope of the review are to be conveyed to the Parliamentary Commissioner for the Armed Forces. These shall generally include in particular

- records of any questioning that has taken place,
- records regarding hearings,
- official statements and/or comments,
- decisions on the referral of a matter to the criminal prosecution authorities,
- orders to initiate proceedings,
- disciplinary orders,
- orders to refrain from proceedings,
- military human resources measures and decisions (e.g. dismissals, extension of the period of service)

308. Should agencies subordinate to the Federal Ministry of Defence be immediately concerned with cases raised by the Parliamentary Commissioner, that is without the involvement of the Ministry, Type A General Publication 500/1, 'Cooperation of the Federal Ministry of Defence with its Subordinate Agencies', shall apply as a matter of principle. With regard to cases of significance for the management of the Federal Ministry of Defence, the relevant specialist authority within the FMoD is to be notified for information only. In cases of outstanding fundamental and/or strategic significance, the authority within the Ministry responsible for this specialist area is to be notified through official channels prior to the dispatch of the comments. Branch FüSK III 1 is to be notified for information only in both cases.

309. Comments from agencies of the Bundeswehr that have been submitted following requests from the Parliamentary Commissioner for the Armed Forces made in response to reports pursuant to Type A General Publication 2600/10 'Estimate of Bundeswehr Morale and Incident Reporting' shall be forwarded immediately to Branch FüSK III 1, with the main case files that have been compiled following their dispatch.

This applies to

- petitions or reports concerning 'suspicions of criminal acts under the Military Penal Code' (paragraphs 322 to 325 of Type A General Publication 2600/10,
- petitions or reports concerning 'suspicions of offences against sexual self-determination and other forms of sexual harassment by or against members of the Bundeswehr' (para. 341 of Type A General Publication 2600/10)
- petitions or reports concerning 'suspicions of espionage, extremism or violation of the free democratic basic order, committed by or against members of the Bundeswehr' (paras. 361 to 363 of Type A General Publication 2600/10).

310. In addition to this, upon request, all comments submitted to the Parliamentary Commissioner for the Armed Forces by agencies of the Bundeswehr are to be forwarded through official

channels to the Federal Ministry of Defence, with the main case files that have been compiled, if

- the matter is to be assigned political or public/media significance, or
- judicial disciplinary proceedings or criminal proceedings have been instituted concerning the case in question, or their institution is to be expected.

311. In so far as service-women or men release the physicians who have treated them or medical assessors from their duty to maintain medical confidentiality in connection with their petitions to the Parliamentary Commissioner for the Armed Forces, this shall, in case of doubt, relate exclusively to comments made directly to the Parliamentary Commissioner.

Copies of these comments and annexes attached to them that are to be forwarded to other agencies within the jurisdiction of the Federal Ministry of Defence through official channels must not contain any facts or assessments that are subject to medical confidentiality.

312. Comments addressed to the Parliamentary Commissioner for the Armed Forces shall, where applicable, be drafted in such a way that statements subject to medical confidentiality are summarised in a separate annex and shall be conveyed only to the Commissioner directly together with the original copy of the letter.

313. With regard to petitions, their contents and the comments on them, all concerned shall also have a duty to observe confidentiality in their dealings with one another pursuant to the provisions of the relevant legislation and/or collective agreements (e.g. Section 14 of the Legal Status of Military Personnel Act, Section 67 of the Federal Civil Service Act, and Section 3(1) of the Collective Agreement for the Public Service).

314. As a matter of principle, petition matters shall be concluded by a letter from the Parliamentary Commissioner for the Armed Forces. Should the Parliamentary Commissioner give notification of the conclusion of proceedings, the agency that has received the notification is to make the outcome of the review by the Parliamentary Commissioner for the Armed Forces known to all the agencies dealing with the petition.

315. Petitions that the Parliamentary Commissioner for the Armed Forces forwards to agencies of the Federal Armed Forces or the Federal Ministry of Defence for them to comment on may only be dealt with as complaints under the Military Complaints Regulations (WBO) when construing them in this fashion is consistent with the express will of the petitioner. If necessary, the petitioner is to be asked if this is the case.

3.3 Hearings

316. Should the Parliamentary Commissioner for the Armed Forces exercise her or his rights to information and access to records (para. 202(a)), this is to be supported in every respect. In so far as this is required, administrative or special leave shall be granted for a hearing pursuant to Section 9 of the Leave Regulations for Military Personnel (SUV) in conjunction with Section 5 para. 2 of the Leave Regulations for Military Personnel. The possibility of temporary duty travel may be examined with due consideration for the current directives situation.

317. If servicewomen or men are to be heard on matters subject to official confidentiality, permission to give evidence is to be obtained from the competent disciplinary superior. Permission to give evidence shall be deemed to have been given if the evidence does not contain any classified information or only classified information whose security classification is no higher than 'restricted' (VS-NUR FÜR DEN DIENSTGEBRAUCH). Should the persons providing evidence be employees, the regulations set out in civil service and collective agreement law governing secrecy on official matters shall apply *mutatis mutandis*.

The persons heard shall state when giving evidence to the Parliamentary Commissioner for the Armed Forces that their statements contain classified information.

318. The persons heard shall be reimbursed in accordance with the Judicial Remuneration and Compensation Act of 5 May 2004 (*Federal Law Gazette I*, pp. 718, 776), most recently amended by Article 5 of the Act of 11 October 2016 (*Federal Law Gazette I*, p. 2222). This shall be done upon application by the Office of the Parliamentary Commissioner for the Armed Forces.

3.4 Processing of requests when a complaint has been made concurrently

319. Should a complaint have been submitted under the Military Complaints Regulation (WBO), including a disciplinary complaint under Section 42 of the Military Discipline Code (WDO), and should a petition on the same matter have been submitted, the Parliamentary Commissioner for the Armed Forces shall be informed about the current status and progress of the complaint case. A copy of the complaint decision shall be forwarded to her or him unbidden. She or he shall be informed separately of any recourse to legal remedies or of the non-appealability of the ruling delivered on the complaint.

320. Should a matter raised by a petition have import wider than a complaint submitted under the Military Complaints Regulations, this part of the petition shall be dealt with in the same way as other petitions.

321. The legal remedies available under the Military Complaints Regulations and the Military Discipline Code shall not be replaced by a petition to the Parliamentary Commissioner for the Armed Forces. Even if a petition to the Parliamentary Commissioner for the Armed Forces is to be regarded as a complaint or application under the Military Complaints Regulations or Military Discipline Code, the time limits set in the Military Complaints Regulations and Military Discipline Code shall only be observed if the petition has been received by the authority competent to accept such a complaint or application within these time limits.

3.5 Processing within the jurisdiction of the agency concerned

322. The following arrangements shall apply for the processing of cases that the Parliamentary Commissioner for the Armed Forces refers to the agencies of the Bundeswehr for them to settle within their own jurisdiction:

- a) Should the case be directed against a servicewoman or man, it shall be forwarded to the immediate disciplinary superior who is competent to deal with it.
- b) Other cases shall be forwarded to the agency that has to judge on the subject matter of the case.

323. The agency referred to in paragraph 322(b) shall have to deliver a decision to the petitioner through offi-

cial channels, but it may also be communicated orally by the competent disciplinary superiors.

3.6 Visits conducted by the Parliamentary Commissioner for the Armed Forces

324. Visits conducted by the Parliamentary Commissioner for the Armed Forces on special grounds (e.g. in connection with reportable events, or should several identical or similar petitions have been submitted from the same agency) shall be reported by the heads of the agency concerned to the Federal Ministry of Defence by email using the following template:

Federal Ministry of Defence
FüSK III 1
Stauffenbergstraße 18
10785 Berlin
(Email: BMVg FüSK III 1/
BMVg/BUND/DE)

for information only through official channels:

Higher commands and higher federal authorities of the respective major organisational element or military agencies immediately subordinated to the Federal Ministry of Defence
Army Headquarters (Kdo H),
Air Force Headquarters (Kdo Lw), Navy Headquarters (MarKdo), Joint Support Service Command (KdoSKB), Bundeswehr Medical Service Command (KdoSanDstBw), Cyber and Information Domain Service Headquarters (KdoCIR), Bundeswehr Operations Command (EinsFüKdoBw), Bundeswehr Planning

Office (PlgABw), German Military Aviation Authority (Lu-fABw), Leadership Development and Civic Education Centre (ZlnFü), Bundeswehr Command and Staff College (FüAkBw), Federal Office of Military Counter-Intelligence (BAMAD) Federal Office of Bundeswehr Personnel Management (BAPersBw), Federal Office of Bundeswehr Equipment, Information Technology and In-Service Support (BAAINBw), Federal Office of Bundeswehr Infrastructure, Environmental Protection and Services (BAIADBw), Federal Office of Languages (BSprA), Bundeswehr Education Management Centre (BiZBw), Bundeswehr University Hamburg/Munich (UniBw HH/M), Office of the Evangelical Lutheran Church for the Bundeswehr (EKA), Catholic Military Episcopal Office (KMBA), Disciplinary Attorney General for the Armed Forces at the Federal Administrative Court (BWDA), Bundeswehr Centre of Military History and Social Sciences (ZMSBw)

Subject:

Re: Field visit by the Parliamentary Commissioner for the Armed Forces on special grounds

- Date and time
- Agency
- Location and living quarters
- Grounds

4 Notification of servicewomen and men, rights and obligations

401. All servicewomen and men shall be notified of the functions and powers of the

Parliamentary Commissioner for the Armed Forces by their immediate disciplinary superior at the beginning of their basic training and, once again, following their posting to their parent unit.

402. Every servicewoman and man has the right to submit petitions to the Parliamentary Commissioner for the Armed Forces directly without having to go through official channels.

403. The Commissioner's address is:
Parliamentary Commissioner for the Armed Forces
Platz der Republik 1
11011 Berlin
(Mail: wehrbeauftragter@bundestag.de)

Pursuant to paragraph 145 of Type A2 General Publication 2630/0-0-2, 'Life in the Military Community', this address shall be displayed on the agency's information board or information portal.

403. Petitions/letters from members of the Bundeswehr to the Parliamentary Commissioner for the Armed Forces shall be conveyed by the internal postal service. They may be posted in the agency.

404. Servicewomen and men may only contact the Parliamentary Commissioner for the Armed Forces individually.

405. Anonymous petitions shall not be dealt with.

406. Should servicewomen or men contact their discipli-

nary superiors before writing a petition, they shall be given advice and assistance. It may constitute a disciplinary offence and simultaneously a criminal offence under Section 35 of the Military Penal Code if superiors use orders, threats, promises or gifts, or any other means that run counter to service regulations to persuade subordinates not to submit petitions to the Parliamentary Commissioner for the Armed Forces, or suppress such petitions. Any attempt to do so shall also be prosecutable and may be punished as a disciplinary offence.

407. No servicewoman or man may be officially disciplined or discriminated against because she or he has submitted a petition to the Parliamentary Commissioner for the Armed Forces. Compliance with the prohibition of discrimination pursuant to the second sentence of Section 7 of the Act on the Parliamentary Commissioner for the Armed Forces is to be ensured. Should the petition contain breaches of official duties or criminal acts, for example insulting or libellous remarks, this may be punished through disciplinary channels or prosecuted in the criminal courts as a disciplinary offence (cf. para. 3323 of Type A General Publication 2160/6, 'Military Discipline Code and Military Complaints Regulations').

408. Servicewomen and men may not enclose documents whose security classifications are 'confidential' (VS-VERTRAULICH) or higher with

their petitions to the Parliamentary Commissioner for the Armed Forces. This prohibition also extends to the provision of information that, to their knowledge, are subject to security classifications higher than ‘restricted’ (VS-NUR FÜR DEN DIENSTGEBRAUCH). Should the communication of such circumstances seem necessary from the point of view of the petitioner, a reference to this may be included in the petition, or the petitioner shall make contact directly with the Office of the Parliamentary Commissioner for the Armed Forces in order to present her or his concerns while abiding by the provisions on confidentiality. Classified information may only be processed electronically and sent electronically using Information Technology authorised for classified information (VS-IT). It is consequently not permitted to forward classified information subject to the security classification ‘restricted’ (VS-NUR FÜR DEN DIENSTGEBRAUCH) by e-mail over the public Internet. *Classified information subject to the security classification ‘restricted’ (VS-NUR FÜR DEN DIENSTGEBRAUCH) may be sent by private courier services as a normal letter and/or parcel. The envelope or parcel shall not be labelled as classified.*

409. In the performance of the tasks entrusted to him or her, the Parliamentary Commissioner for the Armed Forces shall have the power to demand information and access to records from the

Federal Minister of Defence and all subordinate agencies and persons. These rights may only be denied for compelling reasons of secrecy. The decision to deny said rights shall be made by the Federal Minister of Defence in person or her or his permanent official deputy. As a matter of principle, classified information forwarded to the Parliamentary Commissioner for the Armed Forces whose security classification is confidential (VS-VERTRAULICH) or higher shall be sent via the Federal Ministry of Defence to the classified information registry of the recipient.

5 Data protection

501. The European General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG) must be complied with when processing matters concerning the Parliamentary Commissioner for the Armed Forces (questioning, requesting comments, compilation of reports/templates, transmitting replies etc.). In this regard, the explanatory provisions of Type A General Publication 2122/4 “Data Protection – Rules for implementing the European General Data Protection Regulation and the Federal Data Protection Act” shall apply, in particular in relation to the information obligations to be met. Fur-

thermore, the protection mechanisms set forth – up to protection level 3 – must be complied with.

502. As a matter of principle, the information obligations pursuant to Article 13 ff. GDPR shall be complied with as follows: The petitioner has already been informed about the act of processing by the Parliamentary Commissioner for the Armed Forces. An information obligation does not apply here. The third parties named during processing of the petition must generally be informed during the proceedings (e.g. in the context of answering questions) (cf. Central Service Regulation 2122/4 Chapter 5 Sample Information Obligations).

6 Cooperation in a spirit of trust

601. It shall be expected of all superiors that they cooperate in a spirit of trust with the Parliamentary Commissioner for the Armed Forces and therefore give her or him the opportunity to gather information quickly and thoroughly. This will make it possible to significantly promote servicewomen and men’s understanding of our country’s constitutional system and legal order, as well as their confidence both in democracy and in the Bundeswehr.

602. All disciplinary superiors are called upon to report their experience of the application of this General Publication through official channels to Branch FüSK III 2.

IV.

Excerpt from the Rules of Procedure of the German Bundestag as published in the Notification of 2 July 1980 (*Federal Law Gazette I*, p. 1237), last amended by the Notification of 1 March 2019 (*Federal Law Gazette I*, p. 197)

Rule 113 Election of the Parliamentary Commissioner for the Armed Forces

The Parliamentary Commissioner for the Armed Forces shall be elected by secret ballot (Rule 49).

Rule 114 Reports of the Parliamentary Commissioner for the Armed Forces

(1) The President shall refer the reports of the Parliamentary Commissioner for the Armed Forces to the Defence Committee unless a parliamentary group or five per cent of the Members of the Bundestag demand that they be placed on the agenda.

(2) The Defence Committee shall report to the Bundestag.

Rule 115 Debates on reports of the Parliamentary Commissioner for the Armed Forces

(1) The President shall grant leave to speak to the Parliamentary Commissioner for the Armed Forces in the debate on reports submitted by the Commissioner if a parliamentary group so demands or five per cent of the Members of the Bundestag, who shall be present, so demand.

(2) Upon the demand of a parliamentary group or the demand of five per cent of the Members of the Bundestag, who shall be present, the Parliamentary Commissioner for the Armed Forces shall be summoned to attend sittings of the Bundestag; paragraph (1) shall apply *mutatis mutandis*.

V.

Procedural principles for cooperation between the Petitions Committee and the Parliamentary Commissioner for the Armed Forces

1. The Petitions Committee shall notify the Parliamentary Commissioner for the Armed Forces of a petition if it relates to service personnel of the Bundeswehr. The Parliamentary Commissioner for the Armed Forces shall inform the Petitions Committee whether he or she has opened a case file in the same matter and whether he or she will be taking action.

2. The Parliamentary Commissioner for the Armed Forces shall notify the Petitions Committee of a case if the Petitions Committee has recognisably received a submission in the same matter.

3. If the Petitions Committee and the Parliamentary Commissioner for the Armed Forces both deal with the same matter, the case shall generally first be processed by the Parliamentary Commissioner for the Armed Forces. If the Petitions Committee takes action, it shall notify the Parliamentary Commissioner for the Armed Forces of such. The Parliamentary Commissioner for the Armed Forces and the Petitions Committee shall regularly notify each other in writing of the progress of processing and its outcome.

The German Bundestag's website provides information about Members of the German Bundestag, and important legal foundations for their work such as the Rules of Procedure and the Act on the Legal Status of Members of the German Bundestag. It can be used to search the minutes of plenary proceedings and printed papers or watch debates broadcast on Web TV. Furthermore, information materials can be ordered or downloaded online.
www.bundestag.de

Information on the Internet

Website of the Parliamentary
Commissioner for the Armed Forces
[www.bundestag.de/en/parliament/
commissioner](http://www.bundestag.de/en/parliament/commissioner)

Website of the Defence Committee
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Published by: German Bundestag, Public Relations Division
Text: Karl Gleumes (revised 2021: Jörg Krämer, Irene Etzkorn), Georgia Rauer (pp. 48–54 left)
Translated by: Language Service of the German Bundestag
Designed by: Regelindis Westphal Grafik-Design/ Berno Buff, Norbert Lauterbach
Bundestag eagle: created by Professor Ludwig Gies, revised in 2008 by büro uebele
Photos: front cover, Bundeswehr/Taktisches Luftwaffengeschwader 73;
inside front cover, p. 27 Deutscher Bundestag (DBT)/Marcus Zumbansen; p. 5, p. 55 DBT/Inga Haar; p. 7 DBT/Hans-Günther Oed; p. 13 ullstein bild – AP; p. 19 DBT/Thomas Köhler/phothek.net; p. 23 Bundeswehr/Steve Back; p. 25 Bundeswehr/Führungsunterstützungsbataillon 381; p. 29 Bundeswehr/Oberstabsgefreiter Jakscht; p. 31 Bundeswehr/Oberstabsgefreiter Simon Otte; p. 35, p. 41 DBT/Simone M. Neumann; p. 37 HptGefr Patrick Schulze, 2015; p. 39, inside back cover DBT/Achim Melde; p. 43 KS/Doreen Bierdel; p. 47 Bundeswehr/Sebastian Wilke; p. 49 left Landesbildstelle Niedersachsen; p. 49 right, p. 50 left Press and Information Office of the Federal Government/Rolf Unterberg; p. 50 right dpa-Bildarchiv; p. 51 left Press and Information Office of the Federal Government/Jens Gathmann; p. 51 right, p. 52 right DBT/Parliamentary Archives; p. 52 left DBT/Photo and Image Archive; p. 53 left DBT/bildTeam Berlin, H. Barrientos; p. 53 right DBT/Anke Jacob; p. 54 left DBT/Marco Urban; p. 54 right DBT/Stella von Saldern; p. 56 DBT/Arndt Oehmichen
Graphics: pp. 58–60 Regelindis Westphal Grafik-Design
Printed by: Druckhaus Waiblingen, Remstal-Bote GmbH

As at: June 2021

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