



Deutscher Bundestag

**The Committee for the
Scrutiny of Elections, Immunity
and the Rules of Procedure**





“The 1st Committee is the lead committee for matters relating to Parliament’s Rules of Procedure, but it also deals with many key issues and questions relating to parliamentary democracy more widely. Many members of the public are familiar with the Committee’s scrutiny role following European and Bundestag elections. In its deliberations, the Committee seeks to achieve a consensus on solutions which can, if possible, be supported jointly by all of the parliamentary groups currently represented in the German Bundestag. Our meetings take place in a constructive atmosphere and with an awareness of the special significance of this important committee.”



Professor Patrick Sensburg,
CDU/CSU
Chairman of the Committee
for the Scrutiny of Elections,
Immunity and the Rules of Procedure

The German Bundestag's decisions are prepared by its committees, which are established at the start of each electoral term. Four of them are stipulated by the Basic Law, the German constitution: the Committee on Foreign Affairs, the Defence Committee, the Committee on the Affairs of the European Union and the Petitions Committee. The Budget Committee and the Committee for the Rules of Procedure are also required by law. The spheres of responsibility of the committees essentially reflect the Federal Government's distribution of ministerial portfolios. This enables Parliament to scrutinise the government's work effectively.

The Bundestag committees

The German Bundestag sets political priorities of its own by establishing additional committees for specific subjects, such as sport, cultural affairs or tourism. In addition, special bodies such as parliamentary advisory councils, committees of inquiry or study commissions can also be established. The committees are composed of members of all the parliamentary groups, reflecting the balance of these groups in the German Bundestag. The distribution of the chairs and deputy chairs among the parliamentary groups also reflects their relative strengths in the plenary. In the current electoral term, the committees have between nine and 49 members.

The committees discuss and deliberate on items referred to them by the plenary. They also have the right to take up issues on their own initiative, allowing them to set priorities in the parliamentary debate. When necessary, they draw on external expertise – usually by holding public hearings. At the end of a committee's deliberations, a majority of its members adopt a recommendation for a decision and a report, which serve as the basis for the plenary's decision.

Several special features set the Committee for the Scrutiny of Elections, Immunity and the Rules of Procedure, traditionally also known as the “1st Committee”, apart from the Bundestag’s other committees. For example, all of its functions are enshrined in the constitution: Article 41 of the Basic Law refers to responsibility for the scrutiny of elections, Article 46 regulates the principle of parliamentarians’ immunity, and Article 40 stipulates that the Bundestag must adopt rules of procedure. In addition, the Committee is responsible for examining whether Members had links with the former East German State Security Service.

The Committee for the Scrutiny of Elections, Immunity and the Rules of Procedure

Unlike most of the Bundestag's committees, the 1st Committee is not a purely legislative committee. It seeks to take decisions by consensus wherever possible, including when it comes to amending and interpreting the Rules of Procedure, and when taking decisions on immunity matters and on election scrutiny processes, which should be reached following fair and non-partisan deliberations. Party-political considerations are not at the forefront of the 1st Committee's discussions, as the results of its deliberations invariably affect Parliament as a whole, and today's minority can be tomorrow's majority. In addition, the 1st Committee has a right of initiative: it can submit proposals to the Bundestag for an amendment of the Rules of the Procedure without having to be tasked with doing so by Parliament.

In the current electoral term, the 1st Committee has 14 members. Its composition reflects the close cooperation between the 1st Committee, the parliamentary groups' parliamentary secretaries and the Council of Elders, a body which plays a key role in planning and managing the German Bundestag's work. For example, several Committee members also sit on the Council of Elders, or serve as parliamentary secretaries for their parliamentary groups. Within the 1st Committee, the Committee for the Scrutiny of Elections is an autonomous body whose members are directly elected by the plenary for the duration of the electoral term. The two committees meet separately, and not all of the nine members of the Committee for the Scrutiny of Elections are also members of the 1st Committee. Both committees are chaired by Patrick Sensburg (CDU/CSU).

- 5 ■ ■ ■ ■ ■ CDU/CSU
- 3 ■ ■ ■ SPD
- 2 ■ ■ AfD
- 2 ■ ■ FDP
- 1 ■ The Left Party
- 1 ■ Alliance 90/The Greens

Number of members: 14

Chairman: Professor Patrick Sensburg, CDU/CSU

Deputy Chairman: Dr Florian Toncar, FDP

The 1st Committee's work focuses on matters relating to the Rules of Procedure, the Bundestag's autonomous regulations defining its organisation and procedures, which are adopted anew in each electoral term. If there are doubts about how the Rules of Procedure are to be interpreted, the Committee seeks solutions and provides guidance on the approach to be taken in future. It also discusses necessary adjustments to the Rules of Procedure when new circumstances arise, and bills and other items of business concerning the rights of Members of Parliament or the status of the Bundestag – in relation to the Federal Government or EU institutions, for example.

The Committee's is also responsible for examining motions seeking to establish a committee of inquiry. The second key area of the Committee's work is dealing with matters relating to immunity. Parliamentarians' immunity, guaranteed by Article 46 of the Basic Law, means that a Member of Parliament may only be subject to criminal proceedings or have their personal freedom restricted with the Bundestag's permission. This is intended to safeguard Parliament's ability to function and maintain its standing. It has long been standard practice for the Bundestag to grant general permission, for the duration of an electoral term, for preliminary investigations to be initiated – provided that the public prosecution offices notify the Bundestag in advance of their intention to do so. Investigations may begin 48 hours after receipt of the notification unless the Committee raises any objections; authorisation on a case-by-case basis is not required.



The situation is different when it comes to requests for permission for law enforcement measures (especially searches or the bringing of charges), on which the Bundestag takes a decision during a public sitting. In such cases, the Bundestag must expressly authorise the measure, on the basis of a proposal from the 1st Committee. When dealing with immunity matters, the Committee primarily ensures that the public prosecution offices' actions are free from extraneous considerations and arbitrary decisions; however, it does not consider the evidence. The decision on whether to waive or restore a Member's immunity is not a verdict on guilt or innocence – that is a matter for the courts. Under Article 46 (4) of the Basic Law, the Bundestag has the right to restore a Member's immunity at any time. In practice, this right is used extremely rarely – in other

words, Members of Parliament are not better placed than other citizens due to their immunity.

Examining whether Members of Parliament had links with the former East German State Security Service is also one of the Committee's tasks. It accepts requests from Members who wish to voluntarily undergo this screening, and can examine cases where suspicions exist on its own initiative. In the current electoral term, the Committee is continuing to deal with requests of this kind; it forwards them to the Federal Commissioner for the Records of the State Security Service of the former GDR and asks to be notified of any findings in the records.



Under Article 41 of the Basic Law, scrutiny of Bundestag elections is a matter for the Bundestag. Any eligible voter can contact the Committee for the Scrutiny of Elections to object to the validity of a Bundestag election within two months after the day on which it was held, and request that the Committee examine whether all rules were upheld – regardless of whether the objection relates to the preparations for the election, its conduct or the counting of the votes. The Committee for the Scrutiny of Elections carefully examines all objections and engages with the arguments put forward by those who have submitted objections in its deliberations. Where necessary, the Committee asks the

The Committee for the Scrutiny of Elections

competent election authorities to comment on the substance of an objection before it submits its proposal for a decision to the plenary. Even if an error is found to have taken place, an objection to an election is only upheld if the error has had an impact on the distribution of the seats in the Bundestag. To date, this has never been the case.

It is not the case that objections which do not affect the validity of the Bundestag election have no effect, however.

The Committee for the Scrutiny of Elections investigates every reported error, and it can help to ensure that potential errors are not repeated in future elections, for example by providing guidance to the competent election authorities. The Committee can also ask the Federal Government to review certain legal provisions and procedures.

In addition, the Bundestag scrutinises the election of the German Members of the European Parliament. Here, again, eligible voters can submit an objection within two months after the day of the election. Once the Bundestag has taken a decision on an objection, a complaint against its decision may be lodged with the Federal Constitutional Court.

- 3 ■ ■ ■ CDU/CSU
- 2 ■ ■ SPD
- 1 ■ AfD
- 1 ■ FDP
- 1 ■ The Left Party
- 1 ■ Alliance 90/The Greens

Number of members: 9

Chairman: Professor Patrick Sensburg, CDU/CSU

Professor
Patrick Sensburg,
CDU/CSU
Chairman
University lecturer,
lawyer,
b. 25 June 1971
in Paderborn.
Bundestag Member
since 2009



Dr Florian Toncar,
FDP
Deputy Chairman
Lawyer,
b. 18 Oct. 1979
in Hamburg;
married; two children.
Bundestag Member
from 2005 to 2013
and since 2017



Committee members

The 14 members of the Committee for the Scrutiny of Elections, Immunity and the Rules of Procedure, and the 9 members of the Committee for the Scrutiny of Elections

- ▼ Member of the Committee for the Scrutiny of Elections, Immunity and the Rules of Procedure
- Member of the Committee for the Scrutiny of Elections

Michael Frieser,
CDU/CSU
Lawyer,
b. 30 Mar. 1964
in Nuremberg;
married.
Bundestag Member
since 2009



Ansgar Heveling,
CDU/CSU
Lawyer,
b. 3 July 1972
in Rheydt;
married; one child.
Bundestag Member
since 2009



Carsten Müller,
CDU/CSU
Bank clerk, lawyer,
b. 8 May 1970
in Braunschweig.
Bundestag Member
from 2005 to 2009
and since 2013



Patrick Schnieder,
CDU/CSU
*CDU/CSU spokesman
on the Committee*
Lawyer,
b. 1 May 1968
in Kyllburg;
married.
Bundestag Member
since 2009



Alexander Throm,
CDU/CSU
Lawyer,
b. 8 Sep. 1968
in Heilbronn;
married; two children.
Bundestag Member
since 2017



Dr Matthias Bartke,
SPD
*SPD spokesman
on the Committee*
Lawyer, former senior
civil servant,
b. 16 Jan. 1959
in Bremen;
married; one child.
Bundestag Member
since 2013



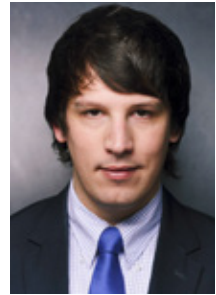
Marianne Schieder,
SPD
Lawyer,
b. 23 May 1962
in Schwarzberg.
Bundestag Member
since 2005



Sonja Amalie Steffen,
SPD
Lawyer,
b. 22 Oct. 1963
in Dreiborn, Eifel;
three children.
Bundestag Member
since 2009



Andreas Bleck,
AfD
Student,
b. 17 Apr. 1988
in Neuwied;
unmarried.
Bundestag Member
since 2017



Thomas Seitz,
AfD
*AfD spokesman
on the Committee*
Lawyer,
b. 8 Oct. 1967
in Ettenheim;
married;
two children.
Bundestag Member
since 2017



Dr Marco Buschmann,
FDP
*FDP spokesman
on the Committee*
Lawyer,
b. 1 Aug. 1977
in Gelsenkirchen;
married.
Bundestag Member
from 2009 to 2013
and since 2017



Katharina Willkomm,
FDP
Lawyer,
b. 19 Feb. 1987
in Düsseldorf;
married.
Bundestag Member
since 2017



Jan Korte,
The Left Party
The Left Party
spokesman
on the Committee
Political scientist,
b. 5 Apr. 1977
in Osnabrück;
married; two children.
Bundestag Member
since 2005



Friedrich Straetmanns,
The Left Party
Social court judge,
b. 5 Aug. 1961
in Bielefeld;
married; three children.
Bundestag Member
since 2017



Britta Haßelmann,
Alliance 90/The Greens
Alliance 90/The Greens
spokeswoman on
the Committee
Social worker,
b. 10 Dec. 1961
in Straelen am
Niederrhein.
Bundestag Member
since 2005



Dr Manuela Rottmann,
Alliance 90/The Greens
Lawyer,
b. 9 May 1972
in Würzburg;
divorced; one child.
Bundestag Member
since 2017



Information online

*The Committee for the Scrutiny of Elections,
Immunity and the Rules of Procedure*
www.bundestag.de/en/committees/a01

The Committee for the Scrutiny of Elections
www.bundestag.de/ausschuesse/wahlpruefung

*The Federal Commissioner for the Records of the State
Security Service of the former German Democratic Republic*
www.bstu.bund.de/en

The Federal Returning Officer
www.bundeswahlleiter.de/en

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Published by: German Bundestag, Public Relations Division
Coordination: Robert Schönbrodt
Texts: Georgia Rauer; revised by: Committees Directorate (p. 4–5),
Secretariat of the Committee for the Scrutiny of Elections,
Immunity and the Rules of Procedure (p. 6–17)
Edited by: Marianne Wollenweber
Translated by: Language Service of the German Bundestag,
in cooperation with Emma Hardie
Design: Marc Mendelson
Bundestag eagle: Created by Professor Ludwig Gies,
revised in 2008 by büro uebele
Photos: p. 2 Deutscher Bundestag (DBT)/Linus Lintner Fotografie;
p. 8–9, DBT/Julia Nowak; p. 19 DBT/studio kohlmeier
Portrait photos: p. 3, 12 Patrick Sensburg/Jan Kopetzky (Patrick Sensburg);
p. 12 Florian Toncar/Ulrich Schepp (Florian Toncar); p. 13 Michael Frieser/
Thomas Lother (Michael Frieser); DBT/Stella von Saldern (Ansgar Heveling);
Carsten Müller/Laurence Chaperon (Carsten Müller); Patrick Schnieder/
Jan Kopetzky (Patrick Schnieder); DBT/Julia Nowak (Alexander Throm);
SPD-Parteivorstand/Susie Knoll (Matthias Bartke); p. 14 SPD-Parteivorstand/
Susie Knoll (Marianne Schieder); Sonja Steffen/Christian Rödel (Sonja
Amalie Steffen); Andreas Bleck (Andreas Bleck); Thomas Seitz/Ingrid Kessler
(Thomas Seitz); Dr Marco Buschmann/Caitlin Hardee (Marco Buschmann);
Katharina Willkomm/Bernhard Link/Farbtonwerk (Katharina Willkomm);
p. 15 DBT/Achim Melde (Jan Korte); DBT/Stella von Saldern (Friedrich
Straetmanns); DBT/Thomas Trutschel/photothek (Britta Haßelmann);
Manuela Rottmann/Björn Friedrich (Manuela Rottmann)
Graphics: p. 7, 11 Marc Mendelson
Printed by: Druckhaus Waiblingen Remstal-Bote GmbH

As at: January 2019
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The German Bundestag takes decisions on what are at times highly complex and controversial bills and parliamentary initiatives relating to the entire spectrum of policy fields. The committees play a central role in parliamentary deliberations. They are the forum where the Members thrash out compromises and draw on expert advice before submitting their reports and recommendations for decisions to be voted on by the Bundestag as a whole.

www.bundestag.de/en/committees