

FSC.DEL/75/12  
5 June 2012

ENGLISH  
Original: GERMAN

**STATEMENT BY MR. ERNST-REINHARD BECK,  
MEMBER OF THE GERMAN BUNDESTAG AND DEFENCE POLICY  
SPOKESMAN OF THE CDU/CSU PARLIAMENTARY GROUP,  
AT THE 684th MEETING OF THE OSCE FORUM FOR  
SECURITY CO-OPERATION**

Vienna, 6 June 2012

**The democratic control of armed forces as an integral component of the  
OSCE Code of Conduct**

Thank you for the invitation. I am pleased to be here with you today. I was asked to describe the instruments and procedures for the parliamentary control of the armed forces in Germany from my point of view as a member of the German Bundestag (lower house) and the defence policy spokesman of the CDU/CSU parliamentary group.

The German Basic Law assigns the key role in controlling and deciding on the deployment of the Bundeswehr (German army) to the Bundestag and the concept of the troops as a parliamentary army derives from this. This links the two institutions: the Bundeswehr receives its mandates from the sovereign State on behalf of the people, and the Bundestag enters into a special duty of care with regard to the soldiers. Around 9 million German citizens have become familiar with the Bundeswehr as conscripts, short-service volunteers or regular soldiers and have had a decisive impact on the democratic culture of the Bundeswehr.

In the Bundeswehr the model of the citizen in uniform and the principle of *Innere Führung* (internal leadership) apply. This means that every soldier remains in the full possession of their rights as a citizen which are restricted only to the extent required by the special nature of service as a soldier.

The concept of *Innere Führung*, a specifically German concept which is based on our historical experience, provides legitimation, integration and identity: legitimation as a democratic army based on international law and human rights, integration of the armed forces into the democratic structures of society, and identity as serving citizens who participate in the country's social and political discussions. Our soldiers swear "faithfully to serve the Federal Republic of Germany and bravely to defend the right and freedom of the German people". They serve neither the Minister nor the Chancellor; they serve only our parliamentary democracy.

When the Federal Republic of Germany was founded in 1949, no thought was yet given to the idea of German armed forces. The Basic Law did not envisage armed forces, as

the wounds and memories of the National Socialist dictatorship were still too fresh. But in response to the emerging East-West conflict, the Bundestag decided in 1952, after a lively domestic political debate, to establish a German army. On 12 November 1955 the first 101 soldiers finally commenced duty. Until around 1990, the only conceivable scenario for the Bundeswehr was defence against the combined Warsaw Pact armed forces. Out-of-area missions were inconceivable for the German Government, the Bundeswehr and the population. Only after a change in security policy in the early 1990s did conflict resolution and crisis management outside the German national borders become a conceivable option. Germany gradually grew into the role of a strong partner who was expected to participate in the resolution of international crises.

Bearing in mind the role of the Wehrmacht in National Socialist Germany, the Bundestag decided to put a double safeguard in place when it established the Bundeswehr. A member of the Federal Government is the head of the Bundeswehr, and the Bundestag decides on its deployment. This also applies to operations abroad, which the Federal Constitutional Court explicitly decided in 1994. Thus the term “parliamentary army” is not an empty phrase. No German soldier is deployed without the Bundestag’s consent. The only exception to this is official assistance. In the event of a disaster, the Minister for Defence may deploy the Bundeswehr to provide support services.

The deployment of German soldiers is a foreign and security policy matter, as shown by the key role played by the Committee on Foreign Affairs in the parliament. The Federal Foreign Office prepares the mandate in consultation with the Federal Ministry of Defence and submits it to the Bundestag. The Federal Government can obtain further clarification through protocol statements. After intense debate in the committees and the plenary, a roll-call vote is required in the German Bundestag for the mandate to be approved.

On 24 March 2005 the German Bundestag passed a Parliamentary Participation Act which sets out the nature, extent and process of participation by the Bundestag in German armed forces missions abroad. Under this act, the Federal Government must obtain the Bundestag’s approval prior to deploying the Bundeswehr abroad. Retroactive approval by the Bundestag is acceptable only in cases of imminent danger, such as when German citizens have to be rescued from extremely dangerous situations. The Federal Government is obliged to inform the Bundestag of the mission statement, the mission area, the legal basis of the mission, the upper limit of soldiers to be deployed, the capabilities of the contingent, the planned duration of the mission and the costs involved.

Before the expiry of a mission’s mandate abroad, the Federal Government must apply to the Bundestag for an extension if the mission is to be continued. Bundestag mandates for Bundeswehr missions abroad are generally decided for a 12-month period. This period is deliberately chosen so that developments in the mission area can be taken into account and the new mandate can be amended if necessary. The Federal Government regularly informs the Bundestag of the progress of the missions and the development in the country of deployment. In addition, parliamentarians travel to the areas of deployment to get a feel for the situation on the ground. If the parliament does not approve the application for extension the mission must be ended. This also applies if the parliament withdraws its consent for the mission, which may occur at any time.

In 2008 the rights of the parliament were further strengthened by the Federal Constitutional Court. Even apparently routine duties associated with alliance commitments

were made subject to consent if an armed conflict was specifically anticipated. The red-green Federal Government at the time had violated the Basic Law at the beginning of the Iraq war by deploying German soldiers in Airborne Warning and Control System (AWACS) aircraft. According to the Constitutional Court, the consent of the Bundestag should have been obtained for this.

The Defence Committee has a special status under the Basic Law. In accordance with Article 45a of the Basic Law, the Defence Committee may also appoint itself as a committee of inquiry if appropriate. Since 1990 this has happened on three occasions: (1) in 1998 because of alleged right-wing extremist tendencies in the Bundeswehr, (2) in 2008 because of the alleged mistreatment of Guantánamo prisoner Murat Kurnaz by Bundeswehr soldiers, and (3) in 2009 because of the information policy of the Federal Government on the bombing of tankers near Kunduz.

The Commander-in-Chief also answers to the Bundestag. This is the Federal Chancellor in the case of defence and the Minister for Defence in times of peace. A further instrument of parliamentary control in addition to the civilian Minister for Defence is embodied by two parliamentary Secretaries of State and the budgetary law of the parliament. In addition to legislation and the function of parliamentary control vis-à-vis the government, this is one of the three central tasks of the German Bundestag.

As a final point I should like to mention the Parliamentary Commissioner for the Armed Forces, a body to assist the Bundestag and the Defence Committee in particular. Acting as a kind of ombudsman, he usually visits the troops unannounced and as the guardian of the soldiers' basic rights safeguards the internal organization of the armed forces. His duties and powers are regulated by the Parliamentary Commissioner for the Armed Forces Act. He is elected by the Bundestag in a secret ballot for a period of five years and is not a member of the Bundestag. At least once a year he gives a report on his work to the parliament. He has a right to receive information and access records from the Minister for Defence and subordinate bodies and can request reports on the disciplinary powers within the armed forces and attend criminal or disciplinary proceedings. Every soldier can directly appeal to the Parliamentary Commissioner for the Armed Forces without making use of official channels.

The most important control function, however, comes from the armed forces themselves, from citizens in uniform. All soldiers, from the rank of private to the rank of general, are to have a common basic understanding of what their duties, obligations and rights as well as their responsibilities entail. Superiors set an example to their subordinates regarding the values of the Basic Law. A symbolic sentence in this respect is: "treat your subordinates as you would like to be treated by your superiors". The spirit of *Innere Führung* is a kind of internal compass. A soldier cannot and should not allow himself to blindly follow orders. He must always be aware of what his conscience is telling him and adapt this to the current legal situation. We do not want an army that serves as a uniformed instrument of a ruler; an army that blindly does whatever it is told to do without questioning anything. This makes great demands on every superior, but also on us parliamentarians, as an important guarantee for a peaceful Germany.

Thank you for your attention.