



Fact Sheet

Mediation Committee

Research Office
Legislative Council Secretariat

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Background	
Overview	<ul style="list-style-type: none">In Germany, bills must be approved by both Houses of Parliament to become legislation. As such, the Mediation Committee was established under Article 77 of the <i>Basic Law</i> as a body that acts as an intermediary between the Bundestag (lower House of Parliament) and the Bundesrat (upper House of Parliament). The Committee will seek compromise solutions between the two Houses when legislation adopted by the Bundestag cannot secure consent in the Bundesrat.
Organizational structure	<ul style="list-style-type: none">The Mediation Committee comprises 16 Members of the Bundestag and an equal number of Members from the Bundesrat⁽¹⁾. A substitute is nominated for each Member, who may attend meetings if the Member is absent.Members of the Mediation Committee from the Bundestag side are determined according to the relative strengths of the parliamentary groups (i.e. a political party or a coalition of parties) in the Bundestag. The current membership is as follows:<ul style="list-style-type: none">(a) Christian Democratic Union/Christian Social Union – seven Members;(b) Social Democratic Party of Germany – five Members;(c) The Left Party – two Members; and(d) Alliance 90/The Greens – two Members.Members of the Mediation Committee from the Bundesrat side are appointed by the 16 federal states⁽¹⁾, which each appoints one representative to the Mediation Committee.

Note: (1) Germany is a federal republic made up of 16 constituent states ("Länder") each with its own government and legislature. The Bundesrat is made up of Members appointed by the state governments.

Background (cont'd)	
Organizational structure (cont'd)	<ul style="list-style-type: none"> • Members of the Mediation Committee enjoy complete freedom in reaching their decisions and are not bound by instructions of any kind from their parliamentary groups. • The Mediation Committee has two chairpersons: one comes from the Bundestag and the other from the Bundesrat. The duty to chair meetings is passed on from one chairperson to the other every three months.
Mediation Process	
Convening the committee	<ul style="list-style-type: none"> • The German legislative process provides for the Bundesrat to make initial comments on a bill before it is submitted to Parliament. The bill, together with the Bundesrat's comments, is then put to the Bundestag for scrutiny. Once the bill has gained the necessary majority in the plenary of the Bundestag after the third reading, it is transmitted to the Bundesrat for consideration. • The Bundesrat cannot make amendments to a bill adopted by the Bundestag, but it may lodge an objection to the bill. For some bills, such as those affecting finances and administrative competencies of the Länder, the consent of the Bundesrat is a compulsory requirement. • In the case of a bill to which the Bundesrat only has the right of objection, the Bundesrat must ask the Mediation Committee to convene if it cannot consent to the bill. If a bill requires the consent of the Bundesrat to become law, the Bundesrat may simply exercise an absolute veto and the bill will fail. The Bundesrat is not obliged to refer a bill to the Mediation Committee if it wants to defeat a bill by refusing to give its consent. Nevertheless, the Bundestag and the Federal government may demand that the Mediation Committee be convened in order to bring about agreement.

Mediation Process (cont'd)	
Results of mediation	<ul style="list-style-type: none"> • The decisions made by the Mediation Committee, known as "compromise proposals", are taken on a majority basis. The Mediation Committee will submit the compromise proposals to the Bundestag and the Bundesrat. • The Mediation Committee may recommend a bill passed by the Bundestag to be: <ul style="list-style-type: none"> (a) amended; (b) confirmed as previously proposed; or (c) rejected.
Proposal to reject or amend a bill	<ul style="list-style-type: none"> • If the Mediation Committee proposes that a bill passed by the Bundestag be rejected/amended, the Bundestag must again take a decision on the bill (the so-called "fourth reading"). The Bundestag is free to decide whether it wishes to accept or reject the Mediation Committee's proposal. • If the Mediation Committee proposes to reject a bill and the Bundestag agrees, this means the defeat of the bill. Alternatively, if the Mediation Committee proposes to amend a bill and the Bundestag agrees, the bill will go before the Bundesrat once more. • The Bundestag can reject the Mediation Committee's proposal to reject/amend a bill in the case of the bill to which the Bundesrat only has the right of objection. Nevertheless, the Bundestag will have to secure the necessary absolute majority of its Members to do so. In the case of a bill requiring the consent of the Bundesrat, the Bundestag cannot overrule the Mediation Committee's proposal.

Mediation Process (cont'd)

Proposal to confirm a bill

- When the Mediation Committee proposes the confirmation of a bill as previously adopted, the legislation is submitted to the Bundesrat again. If the Bundesrat votes for the bill, it may enter into force; if the Bundesrat rejects the bill, the further procedure depends on whether it is a bill that requires the consent of the Bundesrat⁽²⁾ or a bill to which the Bundesrat may lodge an objection.⁽³⁾

Notes: (2) Failure by the Bundesrat to give consent to the bill would mean the final defeat of bill.

(3) The Bundestag can override the objection if it secures the necessary absolute majority of its Members.

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