

# German Special Operations Forces

## The Case for Revision

*Timo Noetzel / Benjamin Schreer*

Triggered by recent events in Afghanistan, Germany is debating the future role of its special operations forces (SOF). Particular criticism has focused on the lack of transparency regarding the deployment of the Special Operations Forces (Kommando Spezialkräfte, or KSK) and on insufficient mechanisms for political oversight over these forces. The German government wants the KSK to continue to participate in Operation Enduring Freedom (OEF). However, in order to prevent further domestic political backlash against the use of these forces, there needs to be a political debate about the future role of SOF in German defense and security policy as well as a revision of current practice.

According to the OEF mandate, KSK soldiers can be deployed alongside U.S. troops in Afghanistan. KSK forces also operate under the mandate of the International Security Assistance Force (ISAF), which is under NATO command and is charged with ensuring the country's security. The recent controversy surrounding the case of Murat Kurnaz, a Turkish citizen from Bremen who has accused members of the KSK of abusing him while in detention in Afghanistan, has led to a defense committee investigation into the matter. It has also unleashed a debate over the risks to German defense and security policy resulting from the deployment of SOF. There is concern in Parliament that in the absence of effective parliamentary control KSK missions could become unaccountable. At the same time, missing in the current political discussion is regard for important operational aspects

and issues concerning the KSK's actual structure and scope of operations.

## Structure and Mission

The KSK was established in 1996. It is comprised of four commando companies, one long range reconnaissance patrol for intelligence gathering, and support units. Each unit has 80 soldiers. The smallest deployable unit consists of four soldiers, each of whom is trained as one of the following: a weapons specialist, a combat engineer, a communications specialist, and a medic.

Today, the unit is embedded within the Special Operations Division (Division Spezielle Operationen, or DSO), which was formed in April 2001 as part of efforts to transform the Bundeswehr into a more expeditionary force. The DSO is a rapid deployment force with operational flexi-

bility designed to fight irregular combatants. It brings together under a single leadership paratroopers and special operations forces. It has command over the 26<sup>th</sup> and 31<sup>st</sup> Airborne Brigades, which are based in Saarlouis and Oldenburg respectively. Each of these brigades has two paratrooper battalions and one support battalion. Various units for combat and command support and reconnaissance also belong to the DSO. Collectively, these troops are known as “Specialized Forces” of the German Armed Forces. Along with the 26<sup>th</sup> and 31<sup>st</sup> Airborne Brigades, the KSK forms the third cornerstone of the DSO. The DSO model is based on the close integration of the KSK with the other components of the force.

The KSK is thus only a part of the DSO, and many deployment scenarios are only conceivable in conjunction with the airborne brigades. Working together with air and naval forces, the KSK is capable of operating deep within enemy territory. It has already carried out numerous successful missions in the Balkans in the hunt for war criminals.

### **The KSK in Afghanistan**

On January 10, 2002, the defense committee of the Bundestag was informed that around 100 KSK soldiers were ready for deployment. In fact, a small commando had already arrived at the U.S. special operations forces base in Kandahar in December 2001. KSK operations in Afghanistan to date can be divided into four phases.

At first, the KSK participated during the American offensive in numerous direct operations aimed against remaining units of the Taliban and Al Qaeda. The KSK units were closely embedded in American operations. Their ability to take on independent missions would have been limited in any case, not least because the German armed forces lacked significant transport capacity. In the second phase, the KSK was primarily involved in monitoring and reconnaissance operations on the border with Pakistan. The third phase consisted largely of patrolling a

designated area of operation south of Kabul. The KSK mission was thus expanded to include safeguarding the German sector of the Afghan capital and the airport. With this new reconnaissance and security mission, the KSK started to become institutionally linked to the ISAF mission. In the current fourth phase, some of the special operations forces are deployed to protect the ISAF contingent in northern Afghanistan, while other KSK units are still directly involved in counter-terrorism measures.

### **A Structural Challenge for German Security Policy**

The deployment of the Bundeswehr’s SOF, in particular the KSK, presents German defense and security policy with a dilemma faced by Western democracies in general. The increase of asymmetrical threat potentials (e.g. in Afghanistan) has changed the framework of security policy, with a greater need to make use of SOF. These are best suited to fight an enemy that eschews conventional military structures and operational tactics. That is why the importance of SOF has also risen among Germany’s closest allies such as the United States, Great Britain, and France.

However, the stronger need to deploy these forces is accompanied by an increase in public awareness and a greater risk for political crises over their operations. Naturally, SOF operate covertly, not least in order to protect soldiers’ lives and to avoid jeopardizing the success of missions. As such, however, they are not accessible for public scrutiny and subjected to only limited political oversight. This almost inevitably leads to a mystification of the SOF that feeds rumors, speculation and conspiracies, which in turn puts pressure on politicians to take action. In Germany, the situation has gotten to the point where the issue of parliamentary control over these forces needs to be tackled.

## **Parliamentary Procedures and SOF Operations**

Germany's Federal Constitutional Court has ruled that all key decisions regarding the deployment of German armed forces need to be endorsed by Parliament as a whole. The "Parliamentary Participation Act" of 2005 stipulates that this also applies in general to the deployment of armed forces abroad. This sort of far-reaching parliamentary involvement is unique to Germany. However, the law does not explicitly refer to the use of SOF. The mandate authorizing the government to send KSK forces to Afghanistan within the framework of OEF was rather vague and general. The "Parliamentary Participation Act" should thus be amended to include explicit rules governing the deployment of special operations forces.

This is the only way to avoid a virtually inevitable conflict between the need for secrecy in the deployment of SOF and Parliament's right of information. Up to now, the decision to dispatch the KSK has been at the sole discretion of the leadership of the Bundeswehr. The ranking members of the parliamentary parties on the defense committee of the Bundestag are also informed about such decisions, but only on a voluntary basis. When Rudolf Scharping was Minister of Defense, very often Parliament was not even told that the KSK was actively deployed. This unfortunate practice improved somewhat under his successor Peter Struck, who promised to inform Parliament about any injuries or deaths that occur during KSK operations. In addition, he provided the ranking members of the defense committee with a broad overview of KSK operations. Still, the past five years have shown that while ranking members are regularly informed by the Minister of Defense about ongoing KSK operations, the Bundeswehr leadership retains extensive discretionary powers. Moreover, there are no written regulations governing reporting procedures.

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Increased regulation of the deployment of special operations forces is hard to reconcile with the imperative of SOF's covert actions. Consequently, there is no "silver bullet" for this problem. Nevertheless, given the structural dilemma discussed above, politicians and the Bundeswehr leadership will have to grapple with this issue.

The mystification of KSK activities is counterproductive in the long run and is not conducive to the conduct of effective operations in Afghanistan. Moreover, the nature of conflict has changed, and it is likely that this will require special operations forces to be called upon even more. The task at hand, then, is to pull the SOF out of the shadows of speculation and to review their mission in a sober fashion.

The current system is highly conflict-prone. Due to security provisions, minor incidents alone provide fertile ground for speculation. Moreover, no reliable policy procedures governing the deployment of special operations forces have been developed. Thus, for example, it is an open question how government would respond if a KSK operation ran into difficulties resulting in the death or serious injury of soldiers. The Bundeswehr leadership will have to determine whether the imperative of strict secrecy is still in its own interests.

## **A New Oversight Committee**

One of the proposals currently being considered is the creation of a new committee that would improve parliamentary oversight of the deployment of special operations forces. It would be comprised of the chairpersons and ranking members of the foreign affairs, defense and budget committees in the Bundestag. In the case of sensitive KSK operations, preliminary information could be withheld from the committee and provided at a later date, if this is necessary to ensure the soldiers' safety.

The establishment of such a body makes sense for at least four reasons. First, this

would fulfill the Bundestag's right of information. Second, the SOF would be subjected to continuous oversight not only in terms of information, but also with regard to the substance of mission objectives. Third, establishing such a political committee would force the Bundeswehr leadership and politicians to proactively deal with the issue of how the legislature can fulfill its oversight responsibilities. At the same time, Parliament would also find a way to deal constructively with developments in how the executive branch acts in its efforts to meet the challenges deriving from new threat scenarios.

Fourth, creating an oversight committee could indirectly contribute to optimizing the effectiveness of special operations forces. The continuous mission creep over the past few years has progressively diluted the KSK's mission statement. The current mission to protect the German contingent could, for example, be more effectively carried out by DSO infantry units who have been trained in this area. In the past, this sort of thing has not happened because, among other reasons, only the KSK had an explicit mandate from the Bundestag for the mission, something the DSO airborne brigades lacked. However, there is no logical explanation for why paratroopers and KSK soldiers belong to the same division, but have to operate separately in Afghanistan on different missions to undertake similar assignments.

Given the experience to date, Germany's political elite needs to rethink how it handles the deployment of German special operations forces. This then also concerns the issue of operational mandates. The KSK is set up in small units to accomplish short-term missions, which do not fit the usual parliamentary practice of providing large contingents with mandates over long periods of time. It is time for German defense and security policy to adapt to these changes and to put the use of its SOF on a new footing.

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