

DEFENCE INDUSTRY INFLUENCE ON EUROPEAN POLICY AGENDAS

Findings from Germany and Italy

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ACRONYMS

EDF	European Defence Fund	NATO	North Atlantic Treaty Organisation
EU	European Union	NGO	Non-governmental organisation
MEP	Members of European Parliament	R&D	Research and development
MoD	Ministry of Defence	TI-DS	Transparency International Defence & Security
MP	Members of Parliament		

EXECUTIVE SUMMARY

The risks and impacts of inappropriate influence in the policy-making process, in which individuals or organisations try to persuade in favour of, or force their own agenda, are particularly significant in the defence and security sector. In this context, high levels of secrecy and complexity, combined with close relations between government, private experts, and the defence industry, converge to create a potentially fertile ground for private interests to thrive. Yet when individuals, groups or corporations wield disproportionate or unaccountable influence, this undermines the public good and public funds may be squandered.

This situation is further complicated by the different roles a government plays with respect to its defence industry, being simultaneously both the main customer and the main regulator. Because the government is reliant on the national defence industry for the fulfilment of one of its core obligations – providing defence and security for its citizens – it is easy to see how lines in the relationship between the two roles can easily become blurred. If unchecked, the influence of the defence industry can damage the integrity of state institutions and distort the aims of a national security strategy, while undermining market competition and good defence sector governance.

Aim of the paper

This paper presents the main findings from two case studies on the influence of the defence industry on the defence and security policy agendas of Germany and Italy. The aim of the studies was to identify pathways of potential undue influence and to make proposals for a more ethical relationship between the defence industry and policy-making entities. This paper provides a summary of the main findings from each study and presents a preliminary framework for understanding the factors that drive the exploitation of these pathways of influence.

Main research findings

The main findings of the research are as follows:

1. Specific to the country case studies:
 - a. Germany has a robust, sophisticated system of defence strategy formation and procurement. However, in recent years there has been a retrenchment of the civil service and its resultant capabilities, as well as a drive to re-equip German

forces for a new age of defence, which has increased the potential for undue influence by technical experts and advisors.

- b. By contrast, Italy lacks a comprehensive and regularly updated defence strategy, and thus tends to work in an ad hoc fashion rather than systematically. A key weakness is a lack of long-term financial planning for defence programmes and by extension, oversight of the processes of budgeting and procurement. This is compounded by a lack of transparency in practice for a range of key interest groups, including parliament, civil society groups, and civil servants.
2. Both countries face similar geopolitical pressures surrounding intergovernmental collaboration and exports assistance. Governments are tasked with facilitating the economic viability of their national defence industries in the face of weak domestic demand for defence goods and services, while at the same time introducing government-to-government coordination over joint products.
3. There is a distinct network of relationships between government, military, analysts, and industry, and frequent movement of persons across different entities, for example within armed forces, policy-making circles, and think tanks. These relationships are difficult to track, particularly in the context of inadequate conflict of interest prohibitions and weak monitoring and enforcement. In practice, there is a delicate balance between ensuring integrity in public service and allowing individual employment freedoms in a competitive market economy. This issue is compounded by the entrenched problem of a limited pool of 'experts' in a field that is complex and often confidential.

Pathways of Influence

The pathways of influence in the defence sector can be grouped into three main categories: money, ideas, and people. **Money** involves influence exerted over the policy process through financial means, ranging from political contributions, to the direct financial interests of decision-makers that have the potential to generate a conflict of interest. Pathways of influence through **ideas** facilitate the transfer of knowledge and information between the private sector, public sector, and the murky territory of think tanks and research institutes. The most prominent example of this exchange is traditional lobbying, but it also relates to the role that think tanks and external consultants play in facilitating undue influence.

The pathway of influence through **people** relates to the movement of individuals between the public and private sectors or their close interactions in public institutions, the military or other associations. These relationships are even more significant given the high levels of complexity and lack of transparency in both the defence institutions and the defence industry.

Factors driving the exploitation of influence pathways

While money, ideas, and people are the main pathways of undue influence in defence sector, there are particular factors that facilitate their exploitation. **National and supranational considerations** surrounding the defence sector, including geopolitical dynamics, national interest confidentiality practices, and the presence of external organisations like think tanks and political associations, involve high-stakes political contests that encourage the use of influence pathways. **Institutional capacities** inform the allocation of resources, and a lack of capacity needed for effective design, implementation, and oversight opens up avenues for undue influence. Finally, there are particular **vulnerabilities in defence processes** – for example, in the design of defence strategies and practice of defence procurement – that make the defence sector particularly vulnerable to undue influence.

Policy insights

Several policy insights have emerged from the research, which highlight the need to fully consider why and how undue influence manifests, and is shaping, the defence policy agendas in Germany and Italy:

1. Vulnerabilities in defence processes – especially in strategy formation and procurement – are not simply technical failures; they are a consequence of both political factors and organisational weaknesses, and the underlying causes of particular vulnerabilities should be identified and addressed in order to remedy them. For example, the impact of the ‘revolving door’ in Italy is augmented by the lack of a coherent defence strategy and process, which can facilitate influence by a small group of individuals moving between entities. Similarly, in Germany, the technological complexity of arms and equipment production, coupled with a retrenchment in civil service capacity in these areas, aggravates the impact of weaknesses in parliamentary oversight processes.
2. Though the private sector is positioned to exert undue influence over government policy and practice for the reasons outlined in this study, governments benefit from their relationship with industry, particularly by directing domestic markets to produce certain types of technology and weaponry. This interdependence facilitates a mutual influence in the defence policy-making process, as well as in the production and acquisition of products, which may develop into undue influence without appropriate measures in ethics frameworks and without organisational capacities that are designed to prevent it.
3. Opportunity for public participation in the security and defence policy debate is already limited and it is often nonexistent when it comes to capabilities and procurement decisions. This is because of the negligible public and, in practice, limited parliamentary access to relevant information as a result of extensive classification and strict confidentiality, justified by the need to protect national security and trade secrets. However, the implementation of transparency standards is not a straightforward process. There are often unintended consequences when openness is required of previously confidential material. In the case of Germany, for example, more transparency in the production of the most recent defence White Paper resulted in the relegation of technical details to confidential annexes, rendering them out of reach for those without specific security clearances. Essentially, the process resulted in more transparency but less information.
4. Weaknesses in oversight are often exacerbated by poor timing of document production and release, which places an increased emphasis on technical expertise. When non-specialists are given limited time to review plans and documents at critical points in defence processes, there is a high likelihood that they will defer to specialist expertise. In budgeting processes, this problem can be partially addressed by producing a ‘citizens’ budget’ that simplifies complex documents into material that non-specialists can input into on a regular basis. The defence sector may benefit from something similar for both the public and MPs, with the caveat that appropriate timing for release of documents is critical.

MAIN FINDINGS OF THE RESEARCH

This paper presents the main findings of two case studies on the influence of defence industry on the defence and security policy agendas of Germany and Italy.

The aim of the studies was to identify pathways of potential undue influence and to make proposals for a more ethical relationship between the defence industry and policy-making entities. This paper provides a summary of the main findings and presents a framework for understanding the factors that drive the exploitation of these pathways of influence.

The main findings of the research are as follows:

1. Country case studies:
 - a. Germany has a robust, sophisticated system of defence strategy formation and procurement. However, in recent years there has been a retrenchment of the civil service and its resultant capabilities, as well as a drive to re-equip German forces for a new age of defence, which has increased the potential for undue influence by technical experts and advisors.
 - b. By contrast, Italy lacks a comprehensive and regularly updated defence strategy, and thus tends to work in an ad hoc fashion rather than systematically. A key weakness is a lack of long-term financial planning for defence programmes and by extension, oversight of the processes of budgeting and procurement. This is compounded by a lack of transparency in practice for a range of key interest groups, including parliament, civil society groups, and civil servants.
2. Both countries face similar geopolitical pressures relating to intergovernmental collaboration and exports assistance. Governments are tasked with facilitating the economic viability of their national defence industries in the face of weak domestic demand for defence goods and services, while at the same time introducing government-to-government coordination over joint products.
3. There is a distinct network of relationships among government, military, analysts, and industry, and frequent movement of persons across different entities, for example within armed forces, policy-making circles, and think tanks. These relationships are difficult to track, particularly in the context of inadequate conflict of interest prohibitions and weak monitoring and enforcement. In practice, there is a delicate balance between ensuring integrity in public service and allowing individual employment freedoms in a competitive market economy. This issue is compounded by the entrenched problem of a limited pool of 'experts' in a field that is complex and often confidential.

INTRODUCTION

Evidence-based and objective foreign policy and security debates are expected in well-functioning democracies. These should be conducted through state institutions that have the trust of the public. Policy decisions should be shaped through public consultation and debate with relevant stakeholders. These processes ensure policy is fit for purpose and, provided such processes are transparent, well-regulated, fair and inclusive, they contribute to an effective and stable society. Yet when individuals, groups or corporations wield disproportionate or unaccountable influence, this undermines the public good and public funds may be squandered.

The risks and impacts of inappropriate influence, where individuals or organisations try to persuade in favour of, or force, their own agenda, are particularly significant in the defence and security sector. In this context, high levels of secrecy and complexity, combined with close relations between government and industry, converge to create a potentially fertile ground for private interests to thrive.

This situation is further complicated by the different roles a government plays with respect to the defence industry, being simultaneously the main customer and the main regulator. Because the government is reliant on the defence industry for the fulfilment of one of its core obligations – providing defence and security for its citizens – the lines in the relationship between

the two roles can easily become blurred. If unchecked, the influence of the defence industry may damage the integrity of state institutions and pervert the aims of a national security strategy, while undermining market competition and good defence sector governance.

Project summary

Transparency International Defence & Security developed and employed a methodology to identify controls to reduce the risks of undue influence, and make recommendations for a more ethical relationship between the defence industry and policy-making entities.

In applying this methodology to two case studies – Germany and Italy – TI-DS identified potential weaknesses in regulations and policy decision-making processes which can be breeding grounds for inappropriate influence to occur. By virtue of having distinct institutional traditions, these two countries provide an interesting spectrum of defence industry characteristics, industry-state relations, lobby regulations, and defence governance characteristics.

The information, analysis and recommendations presented in the case studies were based on extensive document review and more than 50, mainly anonymous, interviews. These included various members of parliament (from different parties), including those privy to key parliamentary committees, as well as current and former parliamentary staffers, former members of the Ministry of Defence (MoD), defence industry and interest group representatives, researchers and professors at the university level. Interviews were also conducted with investigative journalists, as well as staff from non-governmental associations.

PATHWAYS OF INFLUENCE

The way in which industry influence is exerted can be overtly financial, for instance through contributions to political parties and campaigns. It can also take its course through promoting certain ideas or co-opting individuals. These forms of influence can be grouped into three main categories: money, ideas, and people.

Money involves influence exerted over the policy process through financial means, ranging from political contributions to direct financial interests of decision-makers that have the potential to generate a conflict of interest.

Pathways of influence in **ideas** facilitate the transfer of knowledge and information between the private and public sector. The most prominent example of this exchange is traditional lobbying, but they also relate to the role that think tanks and external consultants play in facilitating undue influence. It may also include interactions between directors, employees and board members with the political process and how the process enters the workplace through directors' and employees' political convictions.

The pathway of influence through **people** relates to the movement of individuals between the public and private sectors or their close interactions in public institutions, the military or other associations. These relationships are highly significant in the defence sector given the high levels of complexity and intrinsic lack of transparency in both the relevant institutions and the defence industry.

These three seemingly distinct pathways, in practice overlap and intertwine considerably, often serving as supporting influences for each other. These “categories” of pathways can serve as organising conceptual principles, particularly for further in-depth analysis of a phenomenon in question.¹

Whenever there are significant profit margins at play, and when operating in a context characterised by various levels of confidentiality, there is a risk that personal relationships will be leveraged for potential influence. This is true across government when public-private partnerships are critical to the success of the sector, such as health and pharmaceuticals, education, and infrastructure. It is certainly the case with defence and security; even when principles of transparency are generally upheld, they may be abandoned at key moments in the processes involved in defence strategy formation and procurement. This can occur through malfeasance, but is also a consequence of a combination of factors, including those built into the system so that personal relationships are allowed to either eclipse procedural integrity, or operate beside it unnoticed.

Conflicts of interest: Direct engagements and the 'Revolving door'

Conflicts of interest describe situations in which an individual is in a position to exploit an official capacity for personal benefit, but has not done so yet. The presence of a conflict of interest is not an indicator of improper conduct, but rather a warning, or risk, of its possibility. Conventional wisdom on the management of actual, potential, and perceived conflicts of interest recognises the risk of overlapping loyalties interfering with an official's duties. Thus, the operating principle of a conflict of interest system is to assist public officials in avoiding situations where a conflict of interest can arise and to mitigate conflicts when they do.

Conflicts of interest related to the influence of the defence industry manifest in two clear ways: direct involvement of government officials in the private sector, and the 'revolving door' of individuals moving through positions of influence between government, think tanks, and industry (and often back again). Direct engagements involve the employment or remuneration of elected officials by the private sector, for roles such as advisors, board members, or business leaders in associations. These roles can conflict with public employment in a variety of ways and should be clearly regulated so that officials know what outside employment they are allowed to engage in, as well as how to mitigate conflicts that arise in the course of that employment.

Case study findings

In Germany, the lax rules of the Deputies' Act potentially allow conflicts of interest in Parliament to go unnoticed. Under the Act, remunerated engagements of MPs are permitted as long as financial benefits “are not granted only because the representation and enforcement of the interests of the provider is expected in exchange.”² These rules leave the doors open to MPs to take up lucrative side-jobs for which they may offer representation of interests in exchange. Moreover, no uniform code of conduct exists to prohibit parliamentary staff from accepting gifts, pursuing invitations or moving to private sector jobs at short notice. Parliamentary staff are often invited to regular get-togethers, such as parliamentary evenings and receptions, sometimes even hosted in parliamentary venues, organised by defence firms and proxy organisations.

In Italy, a number of different pieces of legislation regulate conflicts of interest,³ but relevant provisions only apply to people working in the public administration – including employees of the MoD. Politicians and military personnel are excluded.⁴ Moreover, a major weakness of Law n.215/2004 is the definition of 'conflicts of interest'. According to this law, conflicts of interest are “situations when government officials contribute to, promote an act, or fail to perform their duties [...] in ways that benefit them, their business, or relatives and partners”.⁵ This definition covers only actual instances of conflict of interest, but does not address potential or appearance of conflict, which would be the legal basis for any preventative measure. Lack of clarity in the law limits the scope of action to tackle conflicts of interest, and as such, monitoring and enforcement of these instruments is relatively weak.

¹ For example, which of the three categories of pathways, money, ideas, or people, matters for the revolving door between industry and government? This depends on the geopolitical context, the values system operating within institutions, and the set of formal institutional arrangements that define the (accountability) relationships among groups, departments, and individuals.

² Gesetz über die Rechtsverhältnisse der Mitglieder des Deutschen Bundestages (Deputies' Act), §44a(1,2), <http://www.gesetze-im-internet.de/abgg/> [accessed 23 January 2020].

³ This includes Law n.215/2004; Legislative Decree n.165/2001; Law n.190/2012 and its implementing Legislative Decrees n.235/2012 and 39/2013. Law n.215/2004 regulates conflicts of interest for “government officials”, a category that, according to the law, includes the prime minister; ministers; their deputies; undersecretaries of state; and special commissioners appointed by the government. Art. 6 of Legislative Decrees n.235/2012 specifies additional criteria that would make candidates ineligible for government positions. Legislative Decree n.39/2013 regulates the appointment of top level and senior management positions in the public administration. Both the law and the decree include a set of prohibited situations, provide for interests disclosure and set up penalties for misconduct.

⁴ Military personnel instead abide by the Code of Military Conduct, which provides internal reporting lines for dealing with misconduct. Toni De Marchi, 'Difesa, solo i civili sono corrotti: militari tutti onesti per definizione' (*Il Fatto Quotidiano*, 12 February 2015), <https://www.ilfattoquotidiano.it/2015/02/12/difesa-solo-i-civili-sono-corrotti-militari-tutti-onesti-per-definizione/1419551/> [accessed 18 March 2021]. For a link to the Code, see Ministero della Difesa, <https://www.difesa.it/Content/Pagine/CodiceOrdinamentoMilitare.aspx>.

⁵ Parlamento Italiano, Law n. 215 20 July 2004 - “Norme in materia di risoluzione dei conflitti di interessi”, Art.3, <http://www.camera.it/parlam/leggi/042151.htm> [accessed 19 March 2021]

The Revolving Door

The movement of individuals between the public and private sector – while possibly in the interests of both parties – can present a significant conflict of interest risk if not appropriately transparent and properly regulated. The prospect of lucrative private sector employment has the potential to influence policymakers' decisions while still in office in order to benefit their prospective future employers. Then, once employed by a private company, former officials may use their contacts and privileged information either to give their new employer a competitive advantage or to gain access to and influence their former employer. This phenomenon – often referred to as the 'revolving door' – is pervasive in the defence sector globally. Studies in both the United States and the United Kingdom have documented a myriad of cases of retiring generals taking up employment with arms manufacturers and MoD officials accepting jobs with defence companies.⁶

It is indisputable that in taking up these roles, former government employees benefit from professional networks built whilst in the public sector, insider knowledge and the non-transparent processes at work in ministries and even the armed forces. Even when they do stay within the bounds of the law, the relatively short time they have to let pass when cooling off periods are mandated, compared to the many years over which large defence procurement contracts are developed, still brings a competitive advantage to their private sector employer. Some have observed that defence companies see new 'revolving door' candidates as a necessary liability in a bidding war against competitors to secure success and influence within the constraints of an opaque institutional framework.⁷

Case study findings

In Germany, high-ranking officers, senior officials, MPs and their staff regularly find follow-up employment in private industry or proxy organisations. For ministers⁸ and parliamentary state secretaries,⁹ these transitions are supposedly regulated. Potential future employment is only reviewed within 18 months of their departure from government jobs and generally approved after a mere 12-month cooling-off period.¹⁰ For civil servants and soldiers, follow-up appointments are reviewed by the MoD in the five years after their leaving employment, and can be denied if

a conflict of interest could potentially exist.¹¹ However, evidence suggests that enforcement is lax. Between the years 2010 and 2014, of the 42 notifications analysed by the MoD, only two were denied.¹²

As part of Italy's conflict of interest regulations, there are specific 'cooling off' periods mandated to prevent risk arising from the 'revolving door' phenomenon. But Law n.215/2004 regulates conflicts of interest only for a limited number of elected officials, leaving many important public decision-makers under no legal obligation when it comes to their career moves.¹³ In particular, MPs are currently not within the scope of the law. Although it is common to have different standards between government and public officials, Italy's practice is at odds with the rationale for having post-public employment restrictions. Indeed, ministers and cabinet members are more likely to be able to use previously built networks to advance their individual or company interests and influence policy-making.

Campaign and Political financing

Political financing is necessary for inclusive democracy and effective governance, allowing candidates and parties to reach out to voters and for the building of long-term political platforms. Political financing frameworks should establish legal provisions limiting who and how much can be contributed to political parties and electoral candidates; how such funds can be used; how actors must report on their finances; and how oversight and enforcement is to be achieved.

However, weak or ineffective regulation of political financing creates opportunities for donors to exert undue influence over the actions of public officials. The absence of political financing rules can lead to an uneven playing field among political parties, unfair representation, and overall distrust in political parties and political processes more generally. This can be exacerbated by unchecked spending by political parties or candidates, a lack of reporting requirements on income and expenditures, and lack of public funding. Corruption in political finance goes a step further to take advantage of those unfair aspects of the law, and usually "involves the improper and unlawful conduct of financial operations (often by a candidate or a party) for the profit of an individual candidate, political party or interest group."¹⁴ It is often a result of weak or absent bans on donation sources.

⁶ Transparency International Defence & Security, *Out of the Shadows, Promoting Openness and Accountability in the Global Defence Industry*, (TI-UK: London), September 2018, http://ti-defence.org/wpcontent/uploads/2018/09/Out_of_the_Shadows_WEB3.pdf [accessed 24 January 2020]

⁷ Interview with a German defence industry representative, January-February 2019

⁸ Gesetz über die Rechtsverhältnisse der Mitglieder der Bundesregierung (Federal Ministers Act), §6(a-d), 17 June 1953, <https://www.gesetze-im-internet.de/bming/BMinG.pdf> [accessed 24 January 2020].

⁹ Gesetz über die Rechtsverhältnisse der Parlamentarischen Staatssekretäre (Parliamentary State Secretary Act), §7, http://www.gesetze-im-internet.de/parlstg_1974/ [accessed 24 January 2020].

¹⁰ Wolfram Krohn and Tobias Schneider, 'Defence & Security Procurement', *Getting the Deal Through*, January 2019, <https://gettingthedealthrough.com/area/90/jurisdiction/11/defencesecurity-procurement-germany/> [accessed 24 January 2020].

¹¹ Bundesbeamtenengesetz (Federal Public Servants Act), §105, 05 February 2009, https://www.gesetze-im-internet.de/bbg_2009/BBG.pdf; Soldier Act, §20a, <https://www.gesetze-im-internet.de/sg/SG.pdf> [accessed 24 January 2020].

¹² Deutsche Bundestag, *Drucksache* 18/3672, 2015, p.20, <http://dipbt.bundestag.de/doc/btd/18/036/1803672.pdf> [accessed 24 January 2020].

¹³ Law n.215/2004 regulates conflicts of interest for "government officials", a category that, according to the law, includes the prime minister; ministers; their deputies; undersecretaries of state; and special commissioners appointed by the government.

¹⁴ Marcin Walecki, "Political Money and Corruption" in *Global Corruption Report 2004*, eds. R. Hodess, T. Ianowlocki, D. Rodriguez et al., Transparency International: London, 2004.

The defence industry may not only provide financial support to the election campaigns of politicians but also support in kind through contributions to party events and conferences. While weak political financing frameworks have yet to yield concrete instances of undue influence by the defence industry in the cases examined, direct financial support to campaigns and political activities by the private sector has the possibility of exerting undue influence through reciprocal activities by politicians once they are in office.

Case study findings

The rules in Germany regarding financial support to political parties and politicians fall short of European standards;¹⁵ there is scant monitoring of contributions made to parties or candidates at or around election time. Although there are rules on the amount that a business can donate to a candidate's campaign, this applies to single contributions and a company can exceed this limit by donating many smaller sums, with no cap on the total financial contribution made. In this way, organisations can make multiple smaller payments, even if in sum they surpass these thresholds for individual donors over the course of one year.¹⁶

In Italy, Parliament banned direct state contributions to political parties in 2014, as well as mechanisms to claim back expenses incurred during election campaigns.¹⁷ By banning public sources of political funding, Italian law makes private contributions more important for the financial sustainability of political activities. A notable gap in the law is that 'non-commercial' activities are not subject to the same transparency standards introduced for other donations.¹⁸ Activities like fundraising dinners or events organised by individual politicians or run by political parties have been excluded. This is a cause for concern, as research shows that these forms of fundraising are increasingly relevant.

Lobbying: Traditional and Informal

Traditional lobbying is an activity conducted to seek to influence a government or institution's policies and decisions in favour of a specific cause or outcome.¹⁹ Through dialogue between

institutions, casual events or personal connections, lobbying facilitates the flow of ideas between industry representatives and senior political and public officials. While in itself an integral part of the democratic process, if not transparent and properly regulated it can mutate into privileged access and undue opportunities to exchange information that risks gaining disproportionate influence over political staff and their decisions.

In some jurisdictions, such as the EU, Members of the European Parliament (MEPs) who are involved in drafting and negotiating legislation are required to disclose meetings with interest representatives, who are themselves indexed in a transparency register.²⁰ Commissioners, members of their cabinets and Directors-General are similarly required to make this information available as a matter of transparency policy.²¹ This register has enabled the creation of easily usable tools by civil society organisations to track lobbying activities at EU level, as well as increasing the accountability of the institutions and allowing for greater scrutiny of industry-state relations.

Case study findings

In Germany, lobbying remains largely unregulated, beyond direct financial contributions and rules for follow-up employment for public servants. In 2016, a common practice of issuing parliamentary access passes to lobbyists was discontinued amid controversy resulting from the unwillingness of political parties to make the lists of recipients public.²² This was a clear lack of commitment to transparency, with the decision even questioned by some industry representatives.²³ The Government has since announced plans to introduce a transparency register requiring MPs to declare any interests that they represent, which was approved through legislation in March 2021. However, current plans for the register still fall short of standards set elsewhere – such as the EU Transparency Register – by failing to include details of the specific legislation or subject of lobbying activities, and only requiring leadership-level disclosures.²⁴

¹⁵ Transparency International Defence & Security, *Defence Industry Influence in Germany: Analysing Defence Industry Influence on the German Policy Agenda*, (TI-UK: London), October 2020, p.13, <https://ti-defence.org/publications/defence-industry-influence-germany/> [accessed 1 February 2021].

¹⁶ Lobbypedia, 'Parteispenden ("Wahlkampffinanzierung")', <https://lobbypedia.de/wiki/Parteispenden#Wahlkampffinanzierung> [accessed 23 January 2020].

¹⁷ Camera dei deputati, 'Disciplina e trasparenza dei partiti politici e delle fondazioni', 22 April 2020, https://temi.camera.it/leg18/temi/t18_disciplina_dei_partiti_politici.html [accessed 18 March 2021].

¹⁸ Camera dei Deputati, *XVIII Legislatura Disegno di Legge N. 1189-B*, 2018, Art 9(1) <http://documenti.camera.it/leg18/pdl/pdf/leg.18.pdl.camera.1189-B.18PDL0040420.pdf> [accessed 19 March 2021]; Transparency International Italia, *Soldi e Politica: Dossier sul finanziamento e i conflitti di interesse in politica* (TI Italia: Milan), November 2020, https://www.transparency.it/images/pdf_pubblicazioni/report-soldi-e-politica.pdf [accessed 18 March 2021].

¹⁹ Transparency International, 'Anti-Corruption Glossary ("Lobbying")', <https://www.transparency.org/glossary/term/lobbying> [accessed 24 January 2020].

²⁰ European Parliament, *Report on amendments to Parliament's Rules of Procedure*, December 2018, p.10, http://www.europarl.europa.eu/doceo/document/A-8-2018-0462_EN.pdf [accessed 24 January 2020].

²¹ European Commission, 'Transparency register', https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency/transparency-register_en [accessed 24 January 2020].

²² 'From today no more Access IDs for corporate lobbyists', (*Der Tagesspiegel*, 29 February 2016), <https://www.tagesspiegel.de/politik/bundestag-ab-heute-keine-hausausweise-fuer-firmenlobbyistenmehr/13033656.html> [accessed 24 January 2020].

²³ Interview with a defence industry representative and reserve officer of the German armed forces, January-February 2019.

²⁴ Lisa Hänel, 'Fighting corruption: Germany gets a 'lobby register'', (*Deutsche Welle*, 26 March 2021), <https://www.dw.com/en/fighting-corruption-germany-gets-a-lobby-register/a-56808321> [accessed 6 April 2021].

In Italy, there is no standalone law regulating lobbying activities at the national level.²⁵ It is not possible to have a reliable picture of who is a lobbyist in Italy, due to the lack of a clear definition and the absence of a mandatory national register. Meetings between policy-makers and lobbyists can take place inside or outside of Parliament, and the frequency or topics discussed cannot be monitored effectively. Another area which provides opportunities for lobbying at the parliamentary level and lacks regulation is parliamentary *intergroups*: informal groups formed by MPs from different parties which focus on particular subjects and engage with civil society representatives. These groups lack any kind of regulation and most do not even have a website or a public list of members.²⁶

Outsourcing of technical expertise

There is increasing outsourcing of technical competencies in advanced militaries. As a result, it is becoming common for industry representatives to assume a variety of expert roles that were previously reserved for public servants or members of the armed forces. From information technology, logistics and technical maintenance, to contributions to the development of military strategy and doctrine, industry representatives are becoming deeply embedded in headquarters, staffs and other groups.²⁷

While the private sector is interested in expanding its portfolio of assignments and maintaining a constant utilisation of people and assets to ensure commercial success, the military requires readily available and flexible capacity to resolve occasional peak demand and conserve its resources. The risk here – especially if not recognised and appropriately mitigated – is that industry can subtly shape the perspective of the capability and procurement needs of the armed forces, or profit from armed forces' lack of capacity and expertise to be an intelligent client. The relationships and dependence fostered through such outsourcing could risk inadvertently enlisting the support of the armed forces for the inappropriate international sale of military technology.

Case study findings

In Germany, there is a sense that the MoD lacks the ability and understanding of the need to justify, structure and monitor the influx of ideas, and their consequences, from external consultants to guard against undue influence.²⁸ As an institution, it has not sufficiently preserved the ability to act as an intelligent client. The Airbus A400M is one of the armed forces' largest and longest procurement projects, and serves as an example of this reliance. In 2015, when it started entering service, the Equipment Office had to hire 15 external consultants for the inspection, approval and preparation for use of the delivered units, to bridge the gap of in-house capacity.²⁹ While not inherently wrong, this presents the opportunity for the private sector to potentially exert systemic influence over key areas of German defence. The Process Vulnerabilities section (on defence procurement in particular) addresses the issues of outsourcing and capacity gaps case in more detail.

Outsourcing of technical expertise in the Italian context has not been researched in this study.

²⁵ In the absence of a national law, some regions have adopted regional laws on lobbying – for example Tuscany, Molise and Abruzzo. These regional laws are based on the European Transparency Register, focusing on transparency and participation and they provide for a register, a list of permitted lobbying tools and specific sanctions. However, due to the limited geographical and sectoral scope, these laws do not affect lobbying in the context of defence policy formation, which by definition is an issue that is decided at national level. Transparency International Italia, *Lobbying and Democracy: The Representation of Interests in Italy* (TI Italia: Milan), 2014, p.9, <https://www.transparency.it/informati/publicazioni/lobbying-e-democrazia> [accessed 18 March 2021].

²⁶ Eugenio Levi, Rama Dasi Mariani, and Elena Paparella, *Intergruppi parlamentari, rappresentanza fluida e recenti evoluzioni del parlamentarismo*, (Costituzionalismo.it: Roma), Fascicolo n. 2/2017, https://www.costituzionalismo.it/costituzionalismo/download/Costituzionalismo_201702_634.pdf [accessed 19 March 2021]; 'La necessità di regole e trasparenza per gli intergruppi parlamentari' (Openpolis, 20 January 2017), <https://blog.openpolis.it/2017/01/20/la-necessita-di-regole-e-trasparenza-per-gli-intergruppi-parlamentari/13241> [accessed 19 March 2021].

²⁷ Christian Fuchs and Hauke Friederichs, "Wir sind hier der Kriegsgott" (*Zeit Online*, 20 August 2015), <https://www.zeit.de/2015/34/bundeswehr-ruestungsindustrie-hilfssoldaten> [accessed 24 January 2020].

²⁸ Interview with an MP from the governing coalition, January-February 2019.

²⁹ Thomas Wiegold, 'Ein neuer Anlauf für den effizienten "Staatskonzern Bundeswehr"', *Augen geradeaus*, 05 March 2015, <https://augengeradeaus.net/2015/03/ein-neuer-anlauf-fuer-deneffizienten-staatskonzern-bundeswehr/> [accessed 24 January 2020].

FACTORS DRIVING THE EXPLOITATION OF INFLUENCE PATHWAYS

While money, ideas, and people are the main pathways of undue influence in the defence establishment, there are particular factors that drive their exploitation. **National and supranational considerations** surrounding the defence sector, including geopolitical dynamics, national interest confidentiality practices, and the presence of external organisations like think tanks and political foundations, involve high-stakes political contests that encourage the use of influence pathways. **Institutional capacities** inform the allocation of resources, and a lack of capacity needed for effective design, implementation, and oversight opens up avenues for undue influence. Finally, there are particular **vulnerabilities in processes**, for example the design of defence strategies and practice of defence procurement, that make the defence sector exposed to undue influence.

Factor 1: National and Supranational Constraints

Policy-making involves decisions about foreign policy and national strategies, both of which are a result of political policy- and decision-making structures within a particular context. These are high-stakes contests at the national and supranational levels that create and facilitate pathways of influence, in particular by encouraging the use of specific political vehicles like the European Defence Fund. Policy-making is also shaped by the consolidation of defence markets, which limits the options for governments in the production of defence technology or equipment. There is also the legacy of secrecy that continues to permeate defence policy-making and the national security agenda more generally, making it difficult for actors to exercise oversight or to challenge decision-making.

1.1 Geopolitical considerations

In both Germany and Italy, the focus on domestic production seems to have led to an unrealistic expectation for industry to meet the demands of national governments. As such, there is often a mismatch between what domestic industry can produce and what governments require. This is compounded by the fact that industry may need to export their goods and services

in the face of low domestic demand for their product, often requiring export assistance from governments. As a matter of declared policy, national governments may strive to limit arms sales outside of their region or global governance influence (for example, NATO), while at the same time having a vested interest in facilitating the broad international economic activity of their national defence industry. This ensures the commercial viability of the domestic defence industry and ability to meet the rather modest armed forces orders from national governments, which by themselves would be unable to support a defence industry and maintain its key technological competencies.³⁰

In this way, export issues are often directly related to national defence strategies, since only the sum of production for the armed forces and sales of these goods and services make arms production economically viable. In Europe, exports assistance has been facilitated by pan-European defence collaboration (government-to-government) that often bypasses regular national procurement rules, and benefits from exemptions that diminish parliamentary scrutiny. Transparency on exports is even more restricted in intergovernmental projects where governmental interests seem irredeemably conflicted, such as in cases where exports are banned for human rights abuses.³¹

1.1.1 Intergovernmental cooperation

In a move designed to strengthen the EU's security interests and promote the international competitiveness of the European defence industry, several countries in Europe have called for consolidation of the European defence industry,³² and increased intergovernmental cooperation in arms development.

Developments in the institutions of the EU echo this trend towards pan-European defence collaboration. Under the Common Security and Defence Policy (CSDP), industrial cooperation on the development of defence capabilities has progressed noticeably in the past years. In June 2017, the European Commission launched the European Defence Fund (EDF), worth EUR5.5 billion per year, with the stated aim to “help Member States spend taxpayer money more efficiently, reduce duplications in spending, and get better value for money.”³³ The available funds will contribute to defence research and prototype development, as well as purchases of defence equipment.

³⁰ J. Paul Dunne & Ron P. Smith, ‘The evolution of concentration in the arms market’, *The Economics of Peace and Security Journal*, Vol. 11, No.1, (2016): 12, <https://www.epsjournal.org.uk/index.php/EPSJ/article/view/242> [accessed 24 January 2020].

³¹ In February 2019, it emerged that the Federal Government of Germany had renounced its veto right over future French exports of the battle tank and fighter jet systems under joint development, essentially allowing German defence majors to circumvent its trade legislation. This decision flies in the face of Germany's decision to halt exports to Saudi-Arabia prompted by the killing of the Saudi dissident journalist Jamal Khashoggi. See: Spiegel Online, ‘Deutsch-französisches Geheimpapier regelt Waffenexporte neu’, 15 February 2019, <http://www.spiegel.de/politik/deutschland/ruistungsexporte-deutsch-franzoesischesgeheimpapier-a-1253393.html> [accessed 24 January 2020]; Reuters, ‘German halt in Saudi arms sales causing serious problems: Airbus’, 15 February 2019, <https://www.reuters.com/article/us-airbus-defence/german-halt-in-saudi-arms-sales-causing-serious-problems-airbus-idUSKCN1Q41VK> [accessed 24 January 2020].

³² Die Bundesregierung, *Zur Sicherheitspolitik Und Zur Zukunft Der Bundeswehr (White Paper)*, 2016, p.74, <https://www.bmvg.de/resource/blob/13708/015be272f8c0098f1537a491676bfc31/weissbuch2016-barrierefrei-data.pdf> [accessed 23 January 2020].

³³ European Commission, ‘A European Defence Fund: €5.5 billion per year to boost Europe's defence capabilities’, 07 June 2017, https://ec.europa.eu/commission/presscorner/detail/en/IP_17_1508 [accessed 24 January 2020].

The establishment of the EDF has been accompanied by a noticeable increase in industry lobbying at the EU level. The 10 largest European arms companies spent a combined total of EUR5.6 million on lobbying in 2017, double the amount spent in 2012, a figure that is likely underestimated.³⁴

Through the revolving door, members and staff from EU institutions can transition into lobbyists representing industry interests. An example of this is the Kangaroo Group, a Brussels-based organisation that lobbies on defence and security issues, that has seven MEPs as Members on its Board, three of whom are Members of the European Parliament's Subcommittee on Security and Defence.³⁵

Such a significant presence exposes the decision-making process to potential influence at the supranational level. Certainly, suggestions have been made that industry views carry a heavy weight in the design of programmes and priorities.³⁶ At the time of writing, the specific criteria and award processes of the EDF remain unclear. Without appropriate transparency measures in place, the management of, and decisions in relation to, the EDF risks falling prey to inappropriate industry influence, or at least risks appearing as such. These decisions, the allocation of funds, and prioritisation of certain R&D programmes and capability developments have a bearing on the national level. Many are co-financed, and R&D projects set the agenda of capability development for years to come. As such, it is critical for national governments to advocate for transparency and accountability at the supranational level, in order to ensure the EDF, and other instruments, contribute towards the national security strategy instead of the other way around.

1.1.2 Market consolidation

The defence and security market itself has engaged in widespread consolidation, at all levels (national, regional, global), resulting in monopolies that govern the production of the arms markets, and place individual governments in weakened negotiating positions over costs and timelines. This is particularly true in political contexts that emphasise national production and sales over economic efficiency.

In the defence sector, the suspension of certain regulations that govern other sectors – such as competitive tendering – on grounds of national security interests and market challenges increases the risk of undue influence over policy-making and procurement. This is primarily due to the state's intensified

dependence on a limited set of suppliers. This state of affairs heightens the risk of common defence procurement problems associated with monopolists exerting influence, such as price premiums, delays and cost overruns.³⁷ Suppliers can potentially become “too big to fail” and wield a disproportionate amount of market power.³⁸

A further issue resulting from non-competitive procurement is that although the armed forces may conduct a mandatory cost verification on each bid, this process often takes place in a market vacuum.³⁹ While certain prices can be easily compared to competitively offered services, others can only be checked based on rough desk estimates.

Moreover, the “reasonable return” that companies are permitted to generate is calculated as a percentage of their proven costs, an approach that does not foster frugality or cost-effectiveness. On the contrary: it creates an incentive for the defence industry to accelerate investment write-offs and distribute them over national military orders to maximise profits.⁴⁰

1.2 Secrecy in the interest of ‘national security’

While the confidential approach might reflect genuine national security concerns, it also increases the risk of inappropriate influence as it enables almost any procurement decision to be justified against the broad strategic guidelines. Parliamentary initiatives aimed at supporting local defence manufacturers and securing constituency jobs may bypass scrutiny and become difficult to oppose, as one former MoD official argued.⁴¹ The need for procurement requirements to flow from an open, well-audited national defence and security strategy is a key component of an effective and accountable procurement process.⁴² Without it, procurement choices risk falling prey to ad hoc decisions influenced by those with the best access; for example, through influence obtained as a result of their support of political parties or candidates and relationships maintained by former employees, frequent interactions with MoD or military personnel.

It is often the case that national security and defence policy remains the realm of government executive privilege and non-publicly convening parliamentary committees. This further complicates the work of media and journalists trying to cover defence topics, as availability of information is limited and highly technical, and only a handful of journalists systematically investigate defence and defence industry issues. Moreover,

³⁴ Vredesactie, *Securing Profits: How the arms lobby is hijacking Europe's defence policy*, October 2017, p.8 https://www.vredesactie.be/sites/default/files/pdf/Securing_profits_web.pdf [accessed 24 January 2020].

³⁵ Kangaroo Group, ‘The board of the Kangaroo Group’, <https://www.kangarogroup.de/who-we-are/kangaroo-board/> [accessed 03 February 2020].

³⁶ Vredesactie, *Securing Profits*, (cit. 34)

³⁷ Interview with a German MP from the opposition party, January-February 2019.

³⁸ As per one defence official: “Contractual penalties are not included in the procurement contract [of the Puma] as, due to the monopoly position of the contractor, these were not enforceable during contract negotiations.” See: Deutsche Bundestag, *Drucksache* 18/650, 2014, p.12, <http://dip21.bundestag.de/dip21/btd/18/006/1800650.pdf> [accessed 24 January 2020].

³⁹ Interview with a former German MoD procurement expert, January-February 2019.

⁴⁰ The plagued A400M project in Germany is an example of a fixed-price procurement project, albeit a multinational one, which ended up costing the public purse far more than originally budgeted. See: Tim Altmeyer and Cyril Hopher, ‘Airbus Seeks New European Help over A400M Costs’ (*Reuters*, 22 February 2017), <https://www.reuters.com/article/us-airbus-results-idUSKBN1610MD> [accessed 1 February 2021].

⁴¹ Interview with a former senior MoD official in the German civil service, January-February 2019.

⁴² Transparency International Defence & Security, *Government Defence Integrity Index: Methods Paper*, (TI-UK: London), 2020, <https://ti-defence.org/gdi/methodology/methods-paper/> [accessed 12 December 2020].

given the degree of classification of information in defence and security projects – not all of it strictly warranted – the onus rests on parliament to carry out proper scrutiny of defence procurement.

1.3 Think tanks, Political Foundations, and Associations

The links between think tanks, political foundations or associations and the political elite demonstrate how influential these networks can be for policy formation.⁴³ This is particularly true in a highly technical field like defence. This influence is not necessarily unwarranted, but it presents the risk that advice given by think tanks is influenced by funding from defence companies, for example. The relevance and visibility of their publications for policymakers is evidenced by the fact that Italian think tanks have a regular collaboration with Italy's Parliament and Ministry of Foreign Affairs within the framework of the Observatory on International Politics, which publishes reports and papers on Italy's foreign and defence policies.⁴⁴ In recent years, public funding for think tanks has shrunk, so that private funding by large corporations has become increasingly important.⁴⁵

In addition to influence through research and thought leadership, events at think tanks can become opportunities for defence companies to sustain their informal networks with the authorities. The lack of equal opportunity of access to decision-makers creates the perception of capture, for example in Italy.⁴⁶ Similarly, numerous think tanks in Germany and elsewhere offer policy input into defence issues by hosting events, producing reports and having experts speak at conferences. But sometimes, the influence they wield on Germany's security and defence policy is backed up by significant financial support from the defence industry.⁴⁷

In Italy, the overlap of political presence, financial opacity and operational flexibility make political foundations potential vehicles of influence through money, as in practice they operate in grey areas of the law where influence could occur unchecked. "The limited financial transparency [of these entities] makes it very hard to monitor their sources of funding, and also to identify the specific beneficiary of that sum within the foundation. These entities have been recipients of expensive properties sold under price, [as a form of bribe], but also money paid in return for services like research studies on very diverse topics."⁴⁸

Regulations prior to 2018 made it impossible to know who contributed financially to these organisations and the extent of these contributions – unless these entities choose to voluntarily disclose information on their annual budgets, members, and donors. New legislation introduced since provides some measures to increase transparency of political foundations, however concerns remain that the narrow definition of political foundations may exclude key think tanks.⁴⁹

In Germany, it is not unusual for key politicians and public servants working on defence issues to have formal ties to organisations that are closely connected to the defence industry, like the Deutsche Gesellschaft für Wehrtechnik (DWT). Although these associations are generally not-for-profit bodies structured as platforms for information exchange and dialogue on topics of security and defence policy, their institutional members are predominantly defence companies, while their steering committees host a plethora of current (and former) MPs as well as high ranking armed forces' officers and MoD representatives.⁵⁰

Casual meetings at conferences, parliamentary evenings and defence fairs arguably allow for an exchange of information that is less hindered by accountability and transparency standards than formal exchanges with ministries, armed forces or Parliament. While not wrong in itself, this circumvents internal compliance mechanisms and could create pathways for exerting influence on security and defence policy decisions. Although some companies decry this dysfunctional system, they feel they have no choice but to participate.⁵¹ This keeps everyone from playing by the rules of transparency.

Factor 2: Institutional capacities

Institutional capacities are a factor in the administration of governance mechanisms, rather than high-level decision-making within government. A lack of capacity in government creates space for undue influence to thrive, both because of a lack of expertise by decision-makers, which may facilitate the sidelining of standard protocols, but also in the form of inadequate policy frameworks and weak monitoring and accountability practices that allow questionable behavior to go unchecked.

⁴³ A 'think tank' is a non-governmental organisation that conducts research on specific issues and offers policy insights to policy-makers, including in the field of defence. 'Political foundations' and associations fulfil a similar function in terms of research and policy insight, however these entities are characterised by a distinct legal status and connections to individual political leaders, primarily through financial backing.

⁴⁴ Italian Parliament, "Osservatorio di Politica Internazionale", <http://www.parlamento.it/843>. For the observatory, IAI provides every three months the "Focus on Euro-Atlantic relations", which also addresses defence issues.

⁴⁵ See, for example: Jean-Pierre Darnis and Alessandro Marrone, 'The Istituto Affari Internazionali as non-state actor for Italy's foreign policy?', Centre de la Méditerranée, 94 (June 2017) paragraph 35, p.12, <https://doi.org/10.4000/cdim.8750> [accessed 19 March 2021].

⁴⁶ Transparency International Defence & Security, *Defence Industry Influence in Italy: Analysing Defence Industry Influence on the Italian Policy Agenda*, (TI-UK: London), April 2021, www.ti-defence.org/defence-industry-influence-italy.

⁴⁷ *Transparency International Defence & Security*, Defence Industry Influence in Germany, p.15-16 (cit. 15)

⁴⁸ L. Franco and T. Mackinson, 'Eyu, dal costruttore Parnasi 150mila euro alla fondazione Pd per studio immobiliare che valeva tre volte meno' (*Il Fatto Quotidiano*, 20 June 2018), <https://www.ilfattoquotidiano.it/2018/06/20/eyu-dal-costruttore-parnasi-150mila-euro-alla-fondazione-pd-per-studio-immobiliare-che-valeva-tre-volte-meno/4441165/> [accessed 19 March 2021].

⁴⁹ Transparency International Defence & Security, *Defence Industry Influence in Italy*, p.18 (cit. 46)

⁵⁰ German Association for Defence Technology (DWT), 'Präsidium', <https://www.dwt-sgw.de/ueber-die-dwt/praesidium/> [accessed 24 January 2020].

⁵¹ Interview with a German defence industry representative, January-February 2019.

2.1 Scarce government resources and expertise

In recent years, the Federal Government of Germany has pared down its technical staff, turning increasingly to research institutions – like the Fraunhofer Institutes – and private sector consultancies for analysis and development of solutions. These consultancies are often contracted on a direct award basis and retained during the procurement process. Consultancy firms providing advisory services can offer a pathway of influence to the heart of government. The increasing demand for such services stems partly from fast-paced restructuring, digitalisation, reforms and the complexity of large procurement projects, as well as the expansion of the defence budget and difficulties in finding qualified and specialised staff in the labour market.⁵²

Moreover, through the outsourcing of key defence functions, private contractors have managed road vehicle fleets and IT services, maintained battle tanks in Kosovo, flown reconnaissance drones in Afghanistan, provided strategic airlift, guard barracks, evaluated aviation data and operated military training grounds. According to one military expert, without a major private sector contribution the German armed forces would be incapable of performing its duties – both domestically and on missions abroad.⁵³

At the later stages of the procurement process, internal expertise and control over the processing of large volumes of data are essential in overcoming information asymmetry. This also reduces the risk of inappropriate influence on the process, whether evaluation of tender responses; costing calculations; drafting of contracts; audit of suppliers; management of contracts; necessary modifications, for example, to accommodate technological advances; or monitoring implementation. This also means having the necessary technical expertise and market knowledge to recognise when demands on capabilities are overinflated or have the potential to generate disproportionate costs in relation to the benefits they offer. Appropriately skilled and experienced staff are essential to identify when contractual proposals are too good to be true and then renegotiate them before the government becomes committed to a costly, uncertain, yet legally enforceable dependency.

In the German Parliament, adequate resources to provide effective oversight and scrutiny of defence procurement are even more limited. As they pass the yearly budget, legislators approve defence procurement initiatives in bulk and conduct a subsequent final check of major purchases before signing

contracts. However, it is generally a single MP from each party who has to delve into the complex decision drafts submitted by the Government, sometimes within only a few days. While staffers, the parliamentary scientific service,⁵⁴ and parliamentary group experts provide some support, MPs may sometimes have to rely on sound bites from stakeholders (such as the MoD, industry, armed forces and trade unions) rather than their own in-depth analysis to reach a decision.⁵⁵

A further risk is that an MP may struggle to identify the origin of information and whether it was from the government, military or private sector.⁵⁶ Expert knowledge in the defence and security field is highly specialised and information is often classified. This increases the risk that unprocessed information, provided by suppliers who have close interactions with public servants and politicians throughout the procurement process, becomes the guiding factor in decision-making,⁵⁷ rather than knowledge produced by in-house capabilities and exposed to due diligence examination. This leaves space for inappropriate influence by lobbyists, private-sector advisors, and industry representatives, especially those that may be working in close collaboration with the military.

2.2 Inadequate ethics regulations and weak monitoring and accountability

The EU Transparency Register has spurred the creation of easily usable tools by NGOs to track lobbying activities at the EU level (mainly focusing on lobbying expenses and meetings), as well as reports on lobbying by specific interest groups, including the defence industry. By contrast, no similar initiatives exist in the Italian or German contexts, due to a lack of information. The current register held by the Italian Chamber of Deputies does not contain details about the budget spent on lobbying, the dates of meetings or subjects discussed with individual MPs, or the parliamentary intergroups in which a stakeholder participates. German regulations governing the mandate of parliamentarians allow for a large margin of individual discretion, merely stating that such potential conflicts of interest be disclosed, without imposing restrictions or penalties for failing to do so.⁵⁸

In a recent case in Germany, an MP was alleged to have lobbied senior government officials for political support for a US-based technology company, despite holding stock options in the company and, therefore, potentially benefitting financially from this activity.⁵⁹ This case demonstrates that existing regulations on disclosures for secondary activities or holdings are not sufficient to ensure the visibility and prevention of conflicts of

⁵² *Transparency International Defence & Security*, Defence Industry Influence in Germany, (cit. 15)

⁵³ Fuchs and Friederichs, “Wir sind hier der Kriegsgott” (cit. 27)

⁵⁴ Wissenschaftlicher Dienst des Bundestages.

⁵⁵ Based on interviews with several different German MPs, January-February 2019.

⁵⁶ Interview with a German MP, January-February 2019.

⁵⁷ Interview with a former senior MoD official in the German civil service, January-February 2019.

⁵⁸ Deutscher Bundestag, ‘Anlage 1 - Verhaltensregeln für Mitglieder des Deutschen Bundestages’, §6, https://www.bundestag.de/parlament/aufgaben/rechtsgrundlagen/go_btj/anlage1/245178 [accessed 23 January 2020].

⁵⁹ “Philipp Amthor’s World: A Young Star in Merkel’s Party Faces Turbulence”, (*Spiegel International*, 12 June 2020), <https://www.spiegel.de/international/germany/philipp-amthor-s-world-a-young-star-in-merkel-s-party-is-in-danger-of-falling-a-f0205fd0-21e0-4f37-896f-bcea2ace1983> [accessed 7 August 2020]

interest. Even when this information is published, it is often only on an individual MP's website and remains unavailable in any consolidated, structured or searchable form to members of the public. This allows potential conflicts of interest and resulting industry influence to fly under the radar.

While Italian Law establishes a framework for overseeing the financing of political activities, in practice it is weak and implementation is underfunded. In particular, the new Law expands the mandate of the existing oversight authority but provides no additional human or capital resources to meet the new requirements. The lack of robust conflict of interest regulations and commitment to implementation across both case studies is a clear indication that the threat of direct engagements, revolving doors, and lobbying practices to public integrity is not being taken seriously.

Factor 3: Vulnerabilities in defence policy and procurement processes

Policy processes include the development of the defence policy and how this subsequently informs (or fails to inform) decisions on defence acquisitions. Well-designed and well-executed policy and decision-making processes guard against the risks that are posed by inappropriate influence. However, process vulnerabilities may open it up to external influence that shifts priorities, obscures practices, or renders oversight meaningless.

3.1 Defence strategy formation

Despite the strong role of the German Parliament in matters of security and defence, the Federal Government of Germany wields wide-ranging executive privilege, having direction over defence strategy formation. The process is robust and characterised by long-term planning, however, it has traditionally been considered confidential and conducted at a distance from the public. This is partly because public engagement with Germany's strategic need for a strong defence industry and military capacity has historically been low.⁶⁰

This lack of public engagement impacts the integrity of the process in two ways.

- First, greater public debate and participation fosters a culture of transparency and public scrutiny,⁶¹ which raises the stakes for oversight and reduces the tolerance for violations of public integrity standards.
- Second, it informs policymakers of the public's preferences and opinions on issues. This is crucial as otherwise only those voices that are engaged with the process and connected to decision-makers are heard. These voices are more likely

to be those representing vested interests, such as industry staff, lobbyists and private sector advisors who tend to have the resources and the contacts to monitor progress, get information early and share their proposals and views at the right time.

The German government's improved public participation process for the 2016 White Paper came at a cost: a less detailed approach that, much more so than even in Cold War editions of the document,⁶² shifts concrete policy specifications to ancillary and sometimes classified documents. Detailed military planning, such as that of the military capability profile, or the resulting procurement "wish list" remains secret.⁶³ Such documents can also be extremely complex and even those who can access them and are tasked with providing oversight can struggle to make sense of them. Information may be contained in multiple tables across dozens of pages and only be accessible in a confidential space where notetaking is not allowed.⁶⁴ Such circumstances are insufficient for meaningful evaluation. While the confidential approach might reflect genuine national security concerns, it also increases the risk of inappropriate influence as it enables almost any procurement decision to be justified against the broad strategic guidelines.

In contrast to the comprehensive and detailed approach in Germany, defence strategy formation in Italy fails to clarify Italy's global geopolitical strategy needed to determine its course of action. Although the 2015 'White Paper' attempts to shape issues in a more comprehensive way, it is not clear and concrete enough to define a logical way forward.⁶⁵ The lack of structure within this framework generates doubts about specific defence procurement choices, which can appear inconsistent with Italy's geopolitical situation and ambitions.

Moreover, the authorities in Italy justify certain acquisitions with arguments that create further confusion, rather than clarification. The lack of an overarching geo-strategic vision that is defined with clear documents makes it possible to avoid justification of particular decisions and to rationalise any choice at any moment, even if it is in contrast with previously declared principles and motivations.

In the context where a general framework is lacking, there can be attempts to influence the more specific elements of the defence strategy, and the Italian White Paper shows that industry is more successful at this than some. During the drafting, the MoD held consultations with academics and scholars in the sector and with experts and representatives of civil society, including pacifist organisations, and with members of the defence industry. While in principle this is an appropriate process to involve relevant stakeholders, in the final documents inputs from the industry are the most prominent.⁶⁶ The weight of their perspectives in discussions and the influence they can exert on

⁶⁰ Transparency International Defence & Security, *Defence Industry Influence in Germany*, (cit. 15)

⁶¹ OECD, *OECD Recommendation on Public Integrity*, 2017, <http://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf> [accessed 24 January 2020].

⁶² Deutsche Bundestag, *Weißbuch 1971/1972* (White Paper), 07 December 1971, <http://dipbt.bundestag.de/doc/btd/06/029/0602920.pdf> [accessed 24 January 2020].

⁶³ Bundesministerium der Verteidigung, 'Neues Fähigkeitsprofil komplettiert Konzept zur Modernisierung der Bundeswehr', 04 September 2019, <https://www.bmvg.de/de/aktuelles/neuesfaehigkeitsprofil-der-bundeswehr-27550> [accessed 24 January 2020]; Interview with former senior MoD official in the German civil service, January-February 2019.

⁶⁴ Interview with a member of staff for a German MP, January-February 2019.

⁶⁵ Transparency International Defence & Security, *Defence Industry Influence in Italy*, (cit. 46)

⁶⁶ An entire chapter in the final draft is dedicated to industrial policies and scientific innovation, relegating academic contributions only to a technical and technological aspect of service to the industry. See: Ministero della Difesa, *Libro Bianco per la sicurezza internazionale e la difesa* [White Paper for International Security and Defence], July 2015, Chapter 9, https://www.difesa.it/Primo_Piano/Documents/2015/04_Aprile/LB_2015.pdf [accessed 18 March 2021].

policy can lead to significant modifications of law, rules, policies and defence practices. They are actively invited by government to participate in decisions that they have a direct interest in.

3.2 Defence procurement

While defence policy and strategy are the key tools that shape the direction of defence procurement, the financial origins of defence procurement lie in the defence budget, whereby allocations for spending are determined in the budget formation process.

However, in Italy it is often difficult to determine the total sum allocated to 'defence purposes' as the overall figure may be split across various ministries with different protocols and stakeholders involved. This fragmentation complicates analysis of how much money is actually spent on defence. It also increases the number of actors across different ministries who may become potential targets of undue influence. In addition, this plethora of targets makes control mechanisms harder to establish, since different offices will have different working methods and require bespoke solutions.

The timing of document production also compromises the usefulness of important information in the budgetary process. In Italy, the Multi-Year Plan for Defence ("Documento Programmatico Pluriennale per la Difesa", or "DPP") has been in operation since 2013. The DPP outlines the general operational needs of the armed forces, including details on specific arms programmes, and their allocated financial resources over the next three years. It also takes into account extra funding provided by the Ministry of Economic Development (MISE). As such, it has become an important resource for Parliament in informing their decision on the defence budget. The difficulty is that the DPP is provided to Parliament in April (and sometimes later) of the same year of the budget, which is approximately four months after the vote on the Budget Law takes place. Thus, this document has a very important informative role in understanding the trends of Italian military procurement, but only for retrospective analysis. It serves no practical utility for debate in the Parliament.

This timing scenario also plays out in the form of outsized influence of the military in shaping Italian defence policy choices. While the armed forces provide important inputs to the civilian elite on strategy (Chiefs of Staff) and arms procurement (the Secretary General/National Armaments Director's Office, or SG/DNA), the technical nature of defence policy makes it hard

for parliamentarians to exercise meaningful control on the inputs given by the armed forces. As a result, for many years Parliament has simply implemented advice from the military without questioning the details of the arms programmes, as they came in the form of bills already approved by the executive.

Timing, when combined with lack of technical expertise, is also a significant problem in the German defence procurement process. Detailed information regarding upcoming procurement is officially conveyed to the Defence and Budget Committees of Parliament through secret annotations to the defence budget and, once again, shortly before signing contracts for procurements over EUR25 million. The formal involvement of Parliament only at this point – after the procurement process has been on-going for months, if not years⁶⁷ – stifles effective debate and stops formal opposition, even though Parliament has that right.⁶⁸ At this point, military assessments have run their course, solutions have been chosen and inappropriate influence could have already been exerted on procurement decisions – whether through embedded industry representatives at the inception stage, or lobbyists at later stages in the process. The political and financial costs of formally overturning well advanced plans at this stage in the process is potentially very high. While, in theory, MPs can inform themselves about new armaments and research projects and the activities of the Equipment Office⁶⁹ throughout the defence budget preparation, limits on capacity mean parliamentary involvement is limited to formal participation at the very beginning when plans are abstract, and at the very end, when everything is too far advanced to be opposed effectively.⁷⁰

Likewise, in Italy, Parliament has the power to approve the start of an acquisition, but has few powers afterward to monitor or amend the decision, even if procurement significantly evolves or changes direction.⁷¹ After a reform made by the Law 244/2012, the Italian MoD is required to report annually on arms programmes to the relevant Committees via parliamentary hearings. Nevertheless, after the initial approvals, formal oversight powers of these committees are limited, and regulations allow reallocation of financial resources in the subsequent years, which can be decided on solely by the MoD without recourse to parliamentary debate.⁷² During the XVII Parliamentary Legislature there were proposals from a number of parliamentarians for the establishment of an 'Authority for the Surveillance of Weapons Systems Acquisition and Compensation', but the project did not go beyond preliminary discussions.⁷³

⁶⁷ Even though, according to the Constitution, it is the Legislature that shall determine the size and structure of armed forces by way of appropriations. See: *Grundgesetz für die Bundesrepublik Deutschland (The Constitution)*, Art. 87a, <https://www.gesetze-im-internet.de/gg/> [accessed 24 January 2020].

⁶⁸ Interview with a German MP from the opposition party, January-February 2019.

⁶⁹ Bundesamt für Ausrüstung, Informationstechnik und Nutzung der Bundeswehr (BAAINBw, translated as the Federal Office of Bundeswehr Equipment, Information and In-Service Support, or the Equipment Office)

⁷⁰ Interview with a parliamentary staff member to an MP, January-February 2019.

⁷¹ Two large armament programmes from recent years illustrate how such initiatives can evolve after parliamentary approval of a specific proposal: the F-35 and the Naval Law. See: Transparency International Defence & Security, *Defence Industry Influence in Italy*, p.30 (cit. 46)

⁷² Interview with a member of the Italian Chamber of Deputies, November 2018.

⁷³ See in particular the Bill proposed by Paolo Bolognesi: Camera dei Deputati, 'Proposta di Legge n.1917', 22 December 2013, https://www.camera.it/leg17/995?sezione=documenti&tipoDoc=lavori_testo_pdl&idLegislatura=17&codice=17PDL0019291&back_to=https://www.camera.it/leg17/126?tab=2-e-leg=17-e-idDocumento=1917-e-sede=-e-tipo [accessed 19 March 2021]. See also the further discussion with also the proposal made by Massimo Artini about parliamentary scrutiny on the implementation of investment programmes by the MoD: Camera dei Deputati, 'Lavori Preparatori dei Progetti di Legge, Atto Camera 2853', 28 January 2015, <https://www.camera.it/leg17/126?tab=&leg=17&idDocumento=2853&sede=&tipo=> [accessed 19 March 2021].

POLICY INSIGHTS

Several policy insights have emerged from the research, which highlight the need to fully consider why and how undue influence manifests, and is shaping, the defence policy agendas in Germany and Italy:

1. Vulnerabilities in defence processes – for example, in strategy formation and procurement – are not simply technical failures; they are a consequence of both political factors and organisational weaknesses, and the underlying causes of particular vulnerabilities should be identified and addressed in order to remedy them. For example, the revolving door in Italy is facilitated by the lack of a coherent defence strategy and process, which can facilitate influence by a small group of individuals moving between entities. Similarly, in Germany, the technological complexity of arms and equipment production, coupled with a retrenchment in civil service capacity in these areas, has highlighted weaknesses in parliamentary oversight processes.
2. Though the private sector is clearly positioned to exert undue influence over government policy and practice for the reasons outlined in this study, the government benefits from its relationship with industry, particularly by directing local markets to produce certain types of technology and weaponry. This interdependence facilitates a mutual influence in the defence policy-making process, as well as in the production and acquisition of products, which may develop into undue influence without appropriate measures in ethics frameworks and without organisational capacities that are designed to prevent it.
3. Opportunity for public participation in the security and defence policy debate is already limited and it is often nonexistent when it comes to capabilities and procurement decisions. This is because of the negligible public and limited parliamentary access to relevant information as a result of extensive classification and strict confidentiality, justified by the need to protect national security and trade secrets. However, the implementation of transparency standards is not a straightforward process. There are often unintended consequences when openness is required of previously confidential material. In the case of Germany, for example, more transparency in the production of the most recent defence White Paper resulted in the relegation of technical details to confidential annexes, rendering them out of reach for those without specific security clearances. Essentially, what transpired is more transparency but less information.

4. Weaknesses in oversight are often exacerbated by poor timing of document production and release, which places an increased emphasis on technical expertise. When non-specialists are given limited time to review plans and documents at critical points in defence processes, there is a high likelihood that they will defer to specialist expertise. In budgeting processes, this problem can be partially addressed by producing a 'citizens' budget' that simplifies complex documents into material that non-specialists can input into on a regular basis. The defence sector may benefit from a similar approach for both the public and MPs, with the caveat that appropriate timing for release of documents is critical.

Most issues with governance mechanisms involve a variety of coordination failures. For example, a lack of institutional capacities may be driven by political factors, and technical solutions may encounter significant political obstacles in response. Moreover, while both countries in this study would benefit from improved legislation and enforcement around public integrity issues, a successful combination of laws and practices depends heavily on the country context, which includes existing institutional frameworks and the willingness to dedicate adequate resources to the task. There is no one-size-fits-all intervention that would successfully remedy the weaknesses that are flagged in this study, which strongly suggests that stakeholder consultations and public engagement are advisable in order to prioritise reforms.

Transparency International Defence & Security

10 Queen Street Place,
London,
EC4R 1BE

ti-defence.org

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