Germany: Elections and the rule of law

The elections at a glance

When? 26 September 2021
Who is being elected? All 598 members of the Bundestag plus additional seats depending on the election results
Who is leading the polls? (Politico/Kalman)
- SPD (S&D) 26%
- CDU/CSU (EPP) 21%
- Bündnis 90/Die Grünen (Greens/EFA) 16%
- FDP (RE) 11%
- AfD (ID) 11%
- Die Linke (GUE/NGL) 6%
System of government: Bicameral parliamentary republic
Electoral system: mixed proportional and direct representation with 5% electoral threshold
Election rules & covid-19:
- No vaccination requirement at voting stations. Masking mandates and other measures vary by federal state.
- Postal voting is widespread, limited early voting options.
- Voting abroad is possible via German embassies and consulates.

Key numbers & facts

- Freedom House Freedom in the World 2021: Score 94/100, free (10/27 in the EU)
- RSF World Press Freedom Index 2021: Rank 13/180 (8/27 in the EU)
- TI Corruption Perception Index 2020: Rank 9/180 (5/27 in the EU)
- Eurobarometer on Rule of Law 2019: 38% of surveyed Germans see a strong need for improving effectiveness and independence of courts (50% EU average)
- Implementation of leading ECHR cases: 31% pending from the last 10 years (45% average)

Previous DRI analysis

- Challenging the EU’s top court: Comparing Polish and German approaches
- Germany 2021 election monitor - Research brief

Expert consulted

Dr Thu Nguyen, Policy Fellow for EU Institutions and Democracy, Jacques Delors Centre

Further reading

- EU Commission 2021 Rule of Law Report Germany
- Eurobarometer on Corruption 2020

Top rule of law issues in Germany

Prosecutor general: German public prosecutors may be instructed by federal or state governments to take a particular course of action and are thus not fully independent. A recent investigation into the Ministry of Finance raised questions of possible political influence from the Lower Saxony Ministry of Justice in directing prosecutorial work.

Fallout of PSPP judgment: In 2020 the German Constitutional Court found that an earlier decision by the European Court of Justice on the European Central Bank’s PSPP bond-buying scheme was beyond the ECJ’s competencies. Since then, the European Commission has launched an infringement procedure against Germany to reassert the primacy of EU law.

Germany’s role in the rule of law in the EU: Germany can influence other member states, like Hungary and Poland, where rule of law crises have escalated. However, the federal government has been largely passive and non-confrontational on the rule of law compared to other EU members such as the Netherlands or Sweden.