



# 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.