The German Federal Legislative Elections 2021 – What you need to know

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On **26 September 2021**, German citizens will elect the members and political parties to be represented in the **German Federal Assembly** (Bundestag), the German Parliament's lower chamber. Members of the Bundestag are elected for a four-year term and their **most important tasks are to elect the Federal Chancellor, legislate and to control the government**.

The 2021 federal legislative elections will determine which candidate will replace German Chancellor, **Angela Merkel**.

In this article, Lighthouse Europe delves into the German electoral system and examines the digital policy agendas of the main political parties.

The German Electoral System

Elections in the Bundestag

The **electoral system** in the Bundestag election is based on **personalised proportional representation**. This means that each voter votes twice: with the first vote, German citizens decide which politician from their constituency should enter the Bundestag as a member. Half of the seats in the Bundestag are allocated via these direct mandates; the others are allocated via the parties' state lists. The parties nominate candidates for the Bundestag in each federal state.

The second vote is awarded by the voter to a party. The second votes carry more weight because they define the balance of power in parliament: the number of seats for each party.

Only parties that have received at least five percent of all secondary votes nationwide may enter the Bundestag. The five-per-cent clause prevents too many small parties from being represented in parliament, which would make it difficult to form a coalition capable of governing.

Coalitions

Since 1961, no party has been able to achieve an absolute majority in the German Bundestag. Instead, the following four coalitions have alternated in Federal Assembly (listed by frequency):

- **Black-yellow coalition** (**CDU/CSU**, conservatives + **FDP**, liberals)
- **Grand coalition** (**CDU/CSU**, conservatives + **SPD**, democrats) – *current coalition*
- **Social liberal coalition** (**SPD**, democrats + **FDP**, liberals)
- **Red-green coalition** (**SPD**, democrats + **Bündnis 90/Die Grünen**, Greens)

However, the 2021 Bundestag elections are unusual, as numerous coalitions could be possible, according to recent polls:

- **Kenya coalition**: Black-red-green coalition of **CDU/CSU** (conservatives), **SPD** (democrats) and **Greens**.
- **Germany coalition**: Black-red-yellow coalition of **CDU/CSU** (conservatives), **SPD** (democrats) and **FDP** (liberals).
- **Traffic light coalition**: **Greens**, **SPD** (democrats) and **FDP** (liberals).
- **Jamaica coalition**: **CDU/CSU** (conservatives), **FDP** (liberals) and the **Greens**.
- **Grand Coalition**: **CDU/CSU** (conservatives) and the **SPD** (democrats).
- **Red-red-green coalition**: **SPD** (democrats), the **Left** and the **Greens**.

Coalitions are essential to form a government and are the result of extensive negotiations and compromises between German political parties. Those compromises take the form of a coalition contract laying down the main political priorities and ambitions of the political parties willing to join forces. In praxis, those coalition contracts have to be approved by members of the political parties.

The current government remains in charge of current affairs until a coalition is formed. There is no time limit for the formation of a coalition. The record for the longest formation of a coalition was set in 2017, where political parties took more than 5 months to find an agreement.

The election of the Federal Chancellor

The **German Chancellor**, the head of the government, is not elected directly by the people, but by members of the Bundestag. The **Federal President** proposes the candidate for Chancellor - usually the candidate whose party has the majority in the Bundestag.

For a successful election, the candidate for Chancellor needs an absolute majority of votes from the members of parliament in the first election phase. This means that he or she must have the votes from the majority of the members of the Bundestag. This is also referred to as the "Chancellor's Majority".

The Chancellor candidates of the main political parties are **Armin Laschet** (CDU, conservatives), **Olaf Scholz** (SPD, democrats) and **Annalena Baerbock** (Greens).

Digital Policy Implications

While the outcome of the upcoming German federal elections are highly unpredictable, the digital policy agendas of the main political parties provide interesting insights on the potential implications of the elections.

Below, Lighthouse Europe surveyed the political programs of the main political parties: the **CDU/CSU** (conservatives, political program), the **SPD** (democrats, political program), the **Greens** (political program) and the **FDP** (liberals, political program).

In terms of digital policy, the main political parties' digital agendas share similar objectives and priorities.

Federal Ministry for Digital Innovation and Transformation

Both the **FDP** (liberals) and the **CDU** (conservatives) appear to be in favour of the creation of a **Federal Ministry for digital innovation and transformation** (see, for instance, here and here). While the idea of such a Ministry is not new and dates back to 2017, there seems to be increased support among policymakers to better coordinate and develop synergies with regard to digital policy. One solution is to create a new Ministry. However, the exact competencies and tasks of this new Ministry remain vague.

Digital Markets

As regards the **regulation of digital markets**, and more particularly of very large platforms (so-called "gatekeepers"), the main political parties are aligned on the objectives but are more divided when it comes to the concrete provisions that should be integrated into a regulation.

The **FDP** is in favour of a European regulation, the **Digital Markets Act** (DMA), that would be complementary to national competition law and only target gatekeepers.

The **Greens** support the DMA, but plead in favour of sharper provisions -especially with regards to so-called "killer-acquisitions" - and for a break-up of companies that are too large, irrespective of any demonstrated abuse in the market.

The **CDU** also supports the DMA and advocates for legislation that is user-centred, guarantees fair conditions for small and medium-sized enterprises in digital competition and creates space for innovation. The CDU wants to explore enhanced interoperability and data-sharing requirements for gatekeepers, a less stringent approach than the Greens. Interestingly, the CDU acknowledges that digital platforms are a central building block of the digital economy because they act as interfaces and promote growth.

Finally, the **SPD** wants to create preventive and proactive competition and antitrust laws in order to regulate digital markets. The SPD additionally wants to develop new European instruments to "tame" gatekeepers or, if necessary, unbundle them. The SPD's position is closer to the one from the Greens, although less radical.

Digital Services

On digital services, the main political parties are less aligned than on digital markets, although all share similar objectives.

The **FDP** wants to abolish the **Network Enforcement Act** (NetzDG) and replace it with a regulatory mix that fully guarantees the protection of freedom of expression. The FDP advocates for more effective prosecution of criminal offences on the Internet, but considers that the NetzDG has so far unilaterally incentivised the deletion of content and placed the decision on the limits of freedom of expression solely in the hands of social networks. The FDP considers that it is primarily the task of the state to act against punishable acts on the Internet.

The **Greens** [want](#) to develop an effective legal framework to fight hate speech on the internet. The Greens aim to achieve this through the ambitious design and rapid implementation of the European **[Digital Services Act](#)** (DSA). The Greens advocate for effective handling of user complaints, as well as improved law and civil enforcement. For this, the Greens want to better equip and train law enforcement agencies, on the basis of clear legal guidelines. The Greens call for greater responsibility of platform operators, considering that they must not undermine existing rights, should be liable for content and must respect fundamental rights when moderating content. The Greens consider that the targeted use of representative, civil-society platform councils could be an option when deciding which content is inappropriate on digital platforms.

The **CDU** [supports](#) the European DSA and advocates for a solid and permanent governance structure for the effective supervision of intermediary service providers. For this, the CDU wants clear responsibilities, accountability and due diligence, including reporting and redress procedures for illegal content. As regards very large platforms, the CDU [considers](#) that they have a particular impact on our economy and society and should therefore be even more transparent and develop appropriate risk management tools to protect the integrity of their services from manipulative techniques.

The **SPD** [wants](#) to further develop the national protection provisions in the Criminal Code and the NetzDG, while advocating for binding regulations at the European level, in particular through the DSA. The SPD considers that in addition to the legal requirements, civil commitment is also needed to restore respect between citizens in digital communication. The SPD [pledges](#) its support to organisations that are active against hate and incitement on the internet.

Prepare for political and regulatory changes

Lighthouse Europe is boutique consultancy specialized in European strategy and public affairs, based in Paris and Brussels. We assist our clients in the analysis of national and European policy priorities, particularly in the digital and environmental sectors. As one of the largest Member States in the European Union, Germany's influence in the EU decision-making process is particularly important. If you would like to learn more about how the upcoming German elections may impact your business, please contact us: info@lighthouseeurope.com