

# The German Political System I

## From its historical roots to the the country of the Basic Law

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# Outline

- 1 Historical background
  - Democratic roots in the 19th and 20th century
  - Germany after 1945
- 2 The German Basic Law: the *Grundgesetz*
  - Basic rights: Art. 1-19
  - The Federation and the Länder: Art. 20-37
  - Further parts of the Basic Law
- 3 Institutional structure of the Federal Republic of Germany
  - The legislative I - Bundestag
  - The legislative II - Bundesrat
  - The process of legislation
  - The executive - chancellor and cabinet
  - The Federal President
  - The judiciary - Federal Constitutional Court

- Early democratic uprisings (e.g. Hambacher Fest 1832)



- Revolutions of March 1848  
National Assembly at Frankfurt's St. Pauls Church: first German Parliament adopting the first constitution for the complete German territory → ultimately unsuccessful



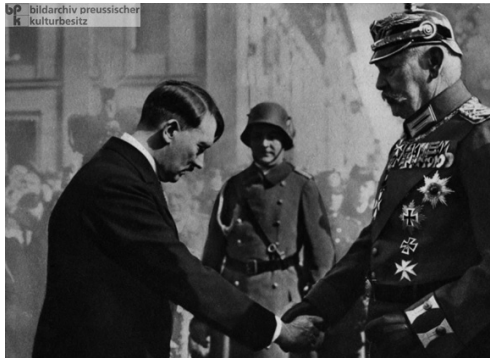
- Founding of first free democratic parties during the period of the German Empire
  - Social Democrats first founded in 1863 and finally legalized by Bismarck in 1890



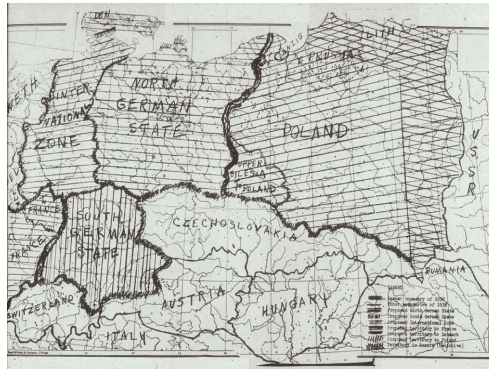
- Weimar Republic (1918-1933)
  - Philipp Scheidemann proclaiming the republic (November 9, 1918)



- Weimar Republic came to its end when Adolf Hitler was appointed as chancellor by Reich President Hindenburg

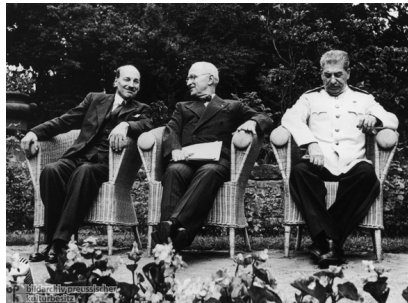


- Allied conferences about the future of Germany already during WWII (Casablanca 1943, Teheran 1943, Yalta 1945)
- Morgenthau Plan: demilititization, partitioning, internationalization of the industrial Ruhr area and reparations



## Potsdam Conference

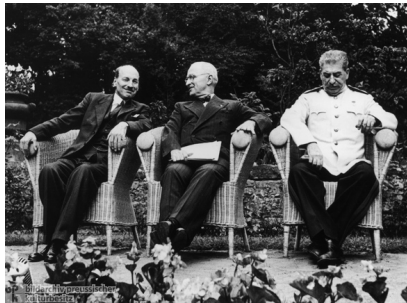
- Denazification
- Demilitarization
- Decentralization
- Democratization





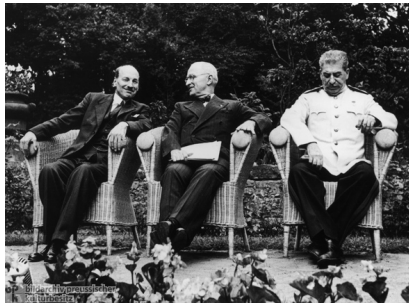
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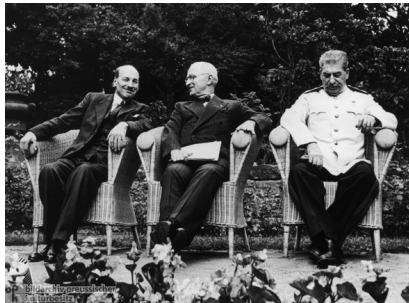
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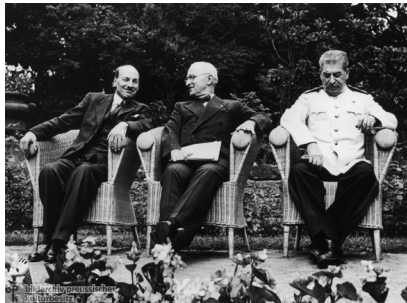
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## Berlin Declaration June 5, 1945

- Allied supreme authority over the German Reich
- Establishment of the Allied Control Council
- Breakdown of the territory in four occupational zones  
(+ Berlin into four sectors)

## Federal structure and establishment of the Basic Law

- Establishment of the German Länder in 1945/46
- Parliamentary Council in 1948/49 developed the Basic Law („Grundgesetz“): Democracy and federalism as central elements
- No institutional continuities from Weimar
- Occupational statute: no complete sovereignty (foreign affairs, demilitarization, industry, financial affairs under Allied control) → ended in 1955 with the treaty of Paris (Allied reserved rights until 2+4 Treaty 1991)

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## Historical background

The German Basic Law: the *Grundgesetz*  
Institutional structure of the Federal Republic of Germany

Democratic roots in the 19th and 20th century  
Germany after 1945

# The German Länder after the reunification



- Basic rights Art. 1-19: (must not be changed in their essence)

- *Art. 1(1): Human dignity shall be inviolable. To respect it and to protect it shall be the duty of all state authority.*

*Art. 1(2): The German people therefore acknowledge inviolable and inalienable **human rights** as the basis of every community, of peace and of justice in the world.*

*Art. 1(3): The following basic rights shall bind the legislature, the executive and the judiciary as directly applicable law.*

- Art. 2: Personal freedom
- Art. 3: Equality before the law
- Art. 4: Freedom of faith and conscience
- Art. 5: Freedom of expression
- Art. 6: Marriage, family and children
- Art. 8: Freedom of assembly
- Art. 9: Freedom of association
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## ● Organizational structure of the Federation and the Länder

- *Art. 20(1): The Federal Republic of Germany is a democratic and social federal state.*

*Art. 20(2): All state authority is derived from the people. It shall be exercised by the people through elections and other votes and through specific legislative, executive and judicial bodies.*

*Art. 20(3): The legislature shall be bound by the constitutional order, the executive and the judiciary by law and justice.*

*Art. 20(4): All Germans shall have the right to resist any person seeking to abolish this constitutional order, if no other remedy is available.*

- Art. 21: political parties
- Art. 23: EU
- Art. 31: supremacy of federal law



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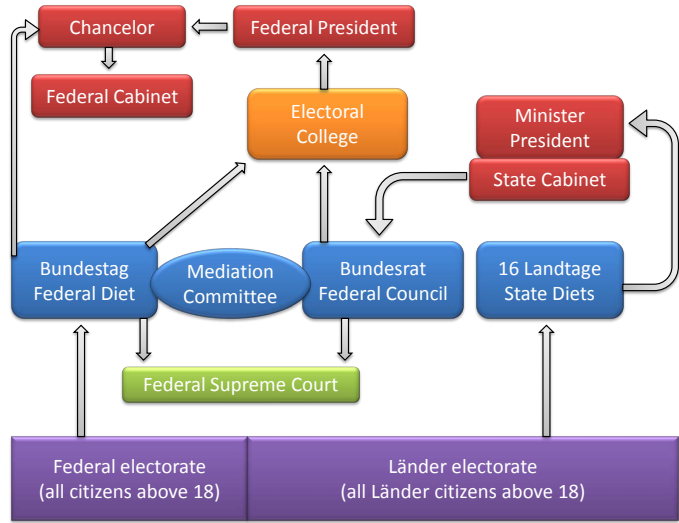
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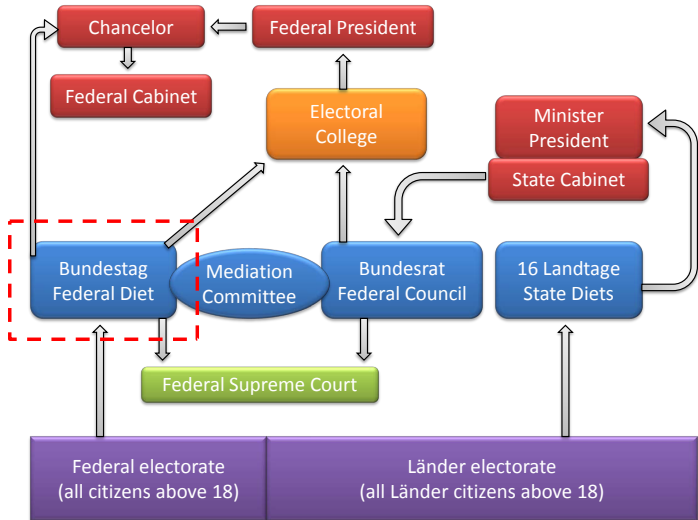




Historical background  
The German Basic Law: the *Grundgesetz*  
Institutional structure of the Federal Republic of Germany

- The legislative I - Bundestag
- The legislative II - Bundesrat
- The process of legislation
- The executive - chancellor and cabinet
- The Federal President
- The judiciary - Federal Constitutional Court





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- more a working than a debating parliament
- permanent committees...
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## Functions of the parliament

- electoral function
  - Federal Chancellor
  - Federal President (together with delegates from the Länder in the Federal Convention)
  - Half of the justices at the Federal Supreme Court
- lawmaking
  - Exclusive federal legislation (foreign policy issues, defence, currency...) vs. concurrent legislation (Civil law, criminal law, consumer protection...) vs. exclusive state legislation (education, penal system...)
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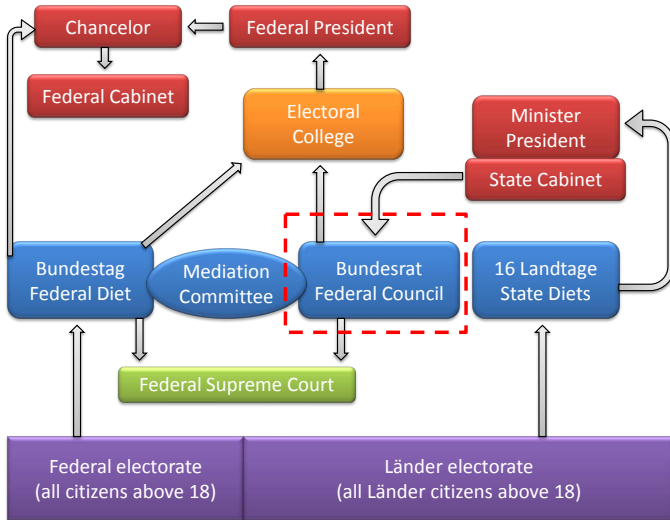


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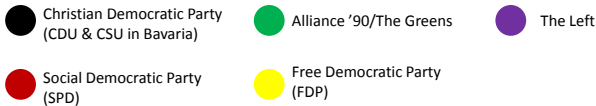
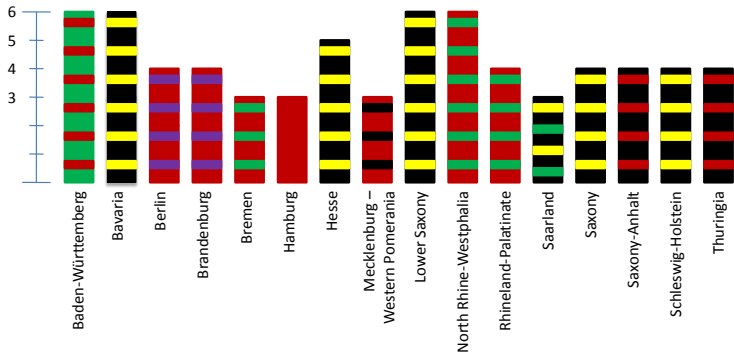
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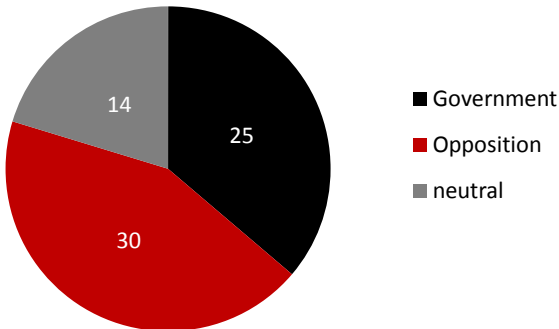


- Second chamber representing the Länder interests
- Members appointed by the Länder governments according to the population of the respective Bundesland
  - at least 3
  - 4 if the Bundesland has more than 2 mio. inhabitants
  - 5 if the Bundesland has more than 6 mio. inhabitants
  - 6 if the Bundesland has more than 7 mio. inhabitants→ 69 members at the moment
- Imperative mandate and votes of each state must be cast en bloc
- Differing party majorities in Bundesrat and Bundestag can cause blockades → necessity of cooperation between the two major parties (CDU/CSU and SPD)

## Distribution of seats in the current Bundesrat



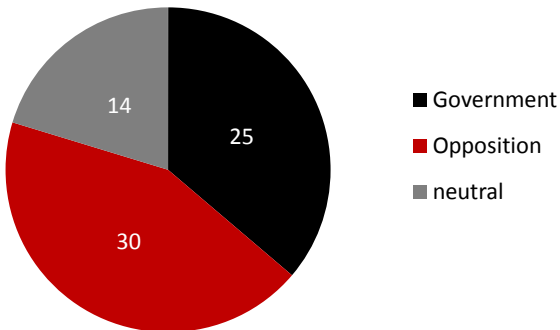
## Majority in the current Bundesrat



Abbé de Sieyès:

*„If a Second Chamber dissents from the first, it is mischievous;  
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## Majority in the current Bundesrat

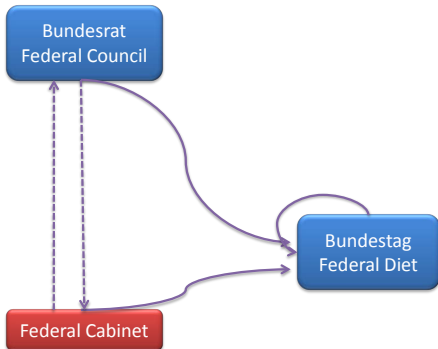


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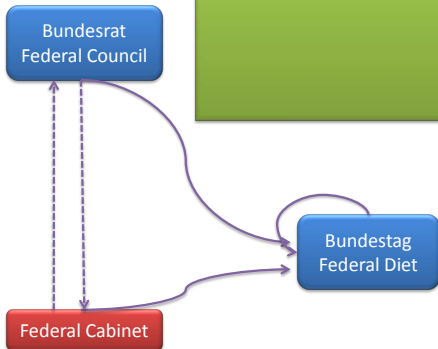
Legislation can be initiated by:

- the Bundesrat
- the Federal Government
- the Bundestag (at least 5% of the parliamentarians necessary)





### Three readings in the plenary of the Bundestag



### Three readings in the plenary of the Bundestag

#### First reading:

Designates the appropriate committee to prepare it for the second reading

Bundesrat  
Federal Council

Bundestag  
Federal Diet

Federal Cabinet

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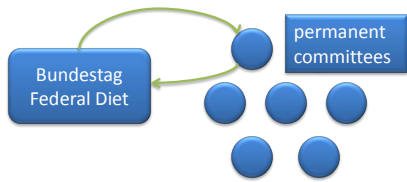
permanent  
committees

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Three readings in the plenary of the Bundestag  
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Federal Council

Federal Cabinet



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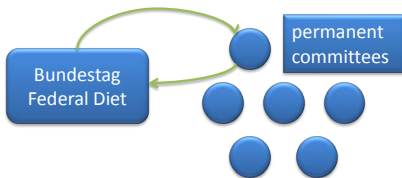
#### First reading:

Designates the appropriate committee to prepare it for the second reading

#### Second reading:

the results of the deliberations in the committee forms the basis of the plenary debate in the second reading.  
Amendments possible, first vote on the bill.

Federal Cabinet



Bundesrat  
Federal Council

### Three readings in the plenary of the Bundestag

#### First reading:

Designates the appropriate committee to prepare it for the second reading

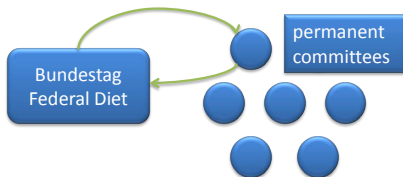
#### Second reading:

the results of the deliberations in the committee forms the basis of the plenary debate in the second reading. Amendments possible, first vote on the bill.

#### Third reading :

further debate only on request; final vote on the bill

Federal Cabinet



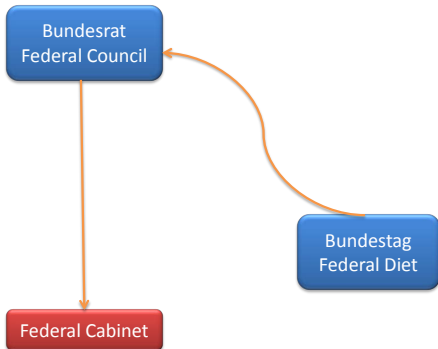
After approval in the Bundestag the bill goes to the Bundesrat.

Bundesrat  
Federal Council

Bundestag  
Federal Diet

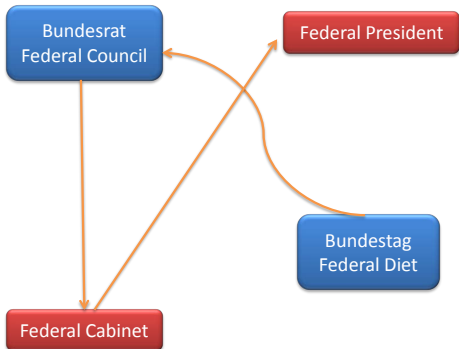
Federal Cabinet

After approval in the Bundestag the bill goes to the Bundesrat. If the Bundesrat approves it, the bill is sent first to the Federal Chancellor and then to the Federal President who signs it into law

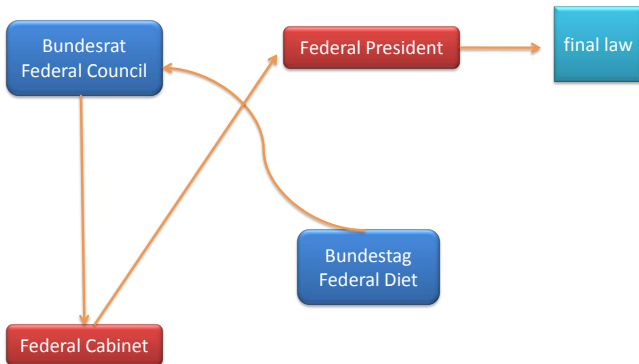




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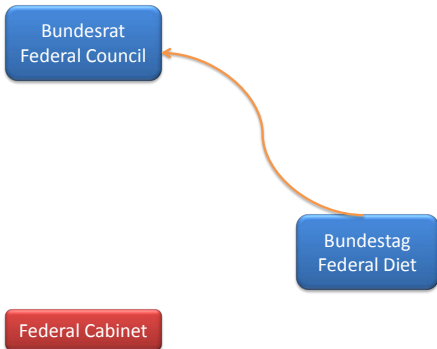


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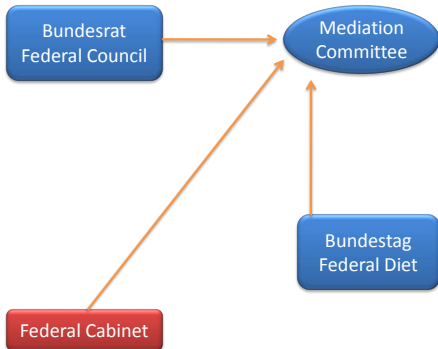
If the Bundesrat does **not** approve the bill, there are two possibilities according to the type of legislation:

1. Laws requiring assent of the Bundesrat
2. Laws requiring no assent of the Bundesrat



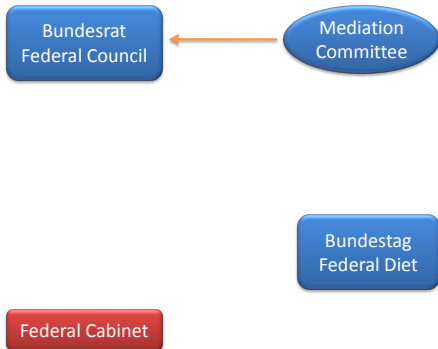
1. Laws requiring assent of the Bundesrat

Bundesrat, Bundestag or Federal Government can call the Mediation Committee



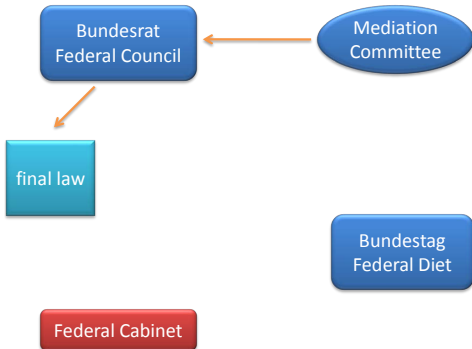
1. Law requiring assent of the Bundesrat

If the Mediation Committee does not alter the bill, it goes back to the Bundesrat for final decision

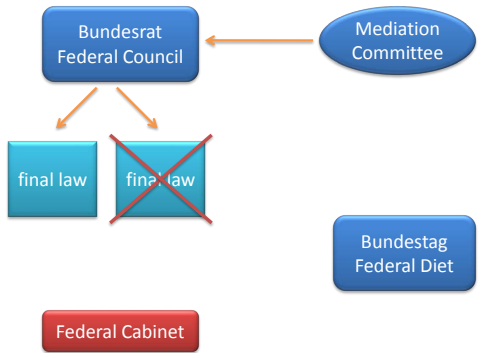


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1. Laws requiring assent of the Bundesrat

If the Mediation Committee alters the bill, it goes back to the Bundestag for a fourth reading and a further vote

Bundesrat  
Federal Council

Mediation  
Committee

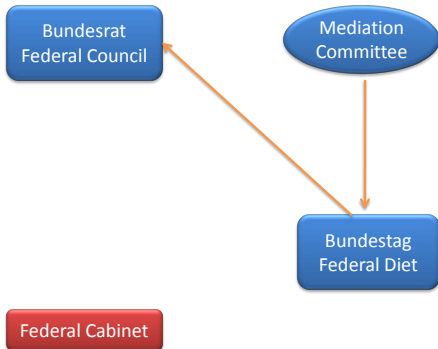
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Federal Diet

Federal Cabinet



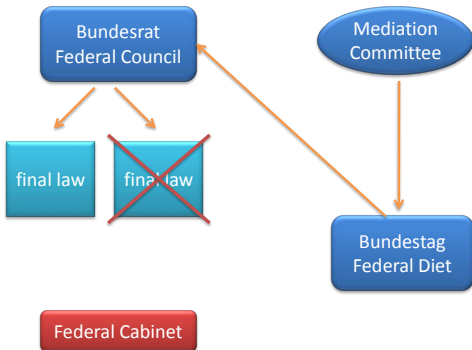
1. Laws requiring assent of the Bundesrat

After approval in the Bundestag the bill goes to the Bundesrat for final decision

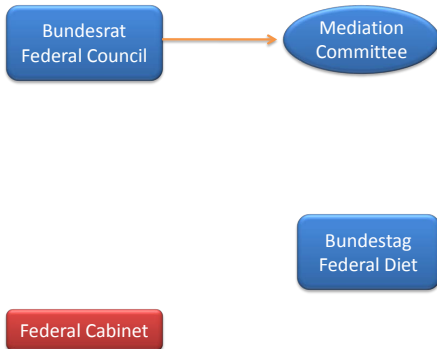


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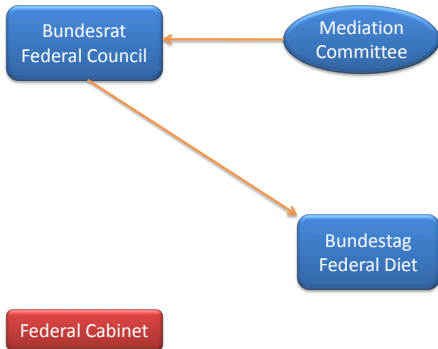


2. Laws requiring no assent of the Bundesrat  
Only the Bundesrat has the right to call the Mediation Committee



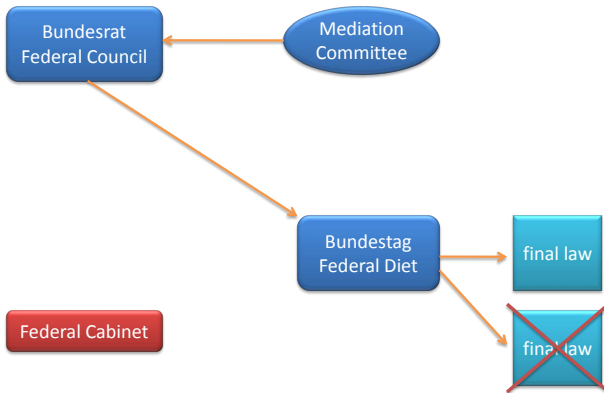
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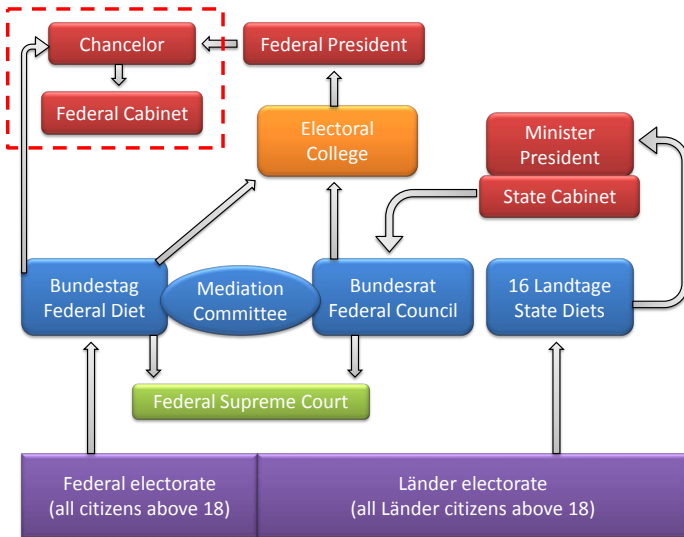
If the Mediation Committee does not find a compromise or one which the Bundesrat rejects, the Bundesrat can lodge an objection. This objection can be overruled by an absolute majority of the members of the Bundestag. Otherwise the law fails.



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Historical background  
The German Basic Law: the *Grundgesetz*  
Institutional structure of the Federal Republic of Germany

- The legislative I - Bundestag
- The legislative II - Bundesrat
- The process of legislation
- The executive - chancellor and cabinet
- The Federal President
- The judiciary - Federal Constitutional Court



Konrad Adenauer  
1949-63



Ludwig Erhard  
1963-66



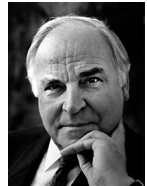
Kurt-Georg Kiesinger  
1966-69



Willy Brandt  
1969-74



Helmut Schmidt  
1974-82



Helmut Kohl  
1982-98



Gerhard Schröder  
1998-2005



Angela Merkel  
2005-



- Elected by the Bundestag with absolute majority of all its members (chancellor majority).
- Right to form the cabinet, i.e. the chancellor selects and dismisses the ministers (but constrained by coalition agreements, inner party factions and regional proportionalities).
- The chancellor sets the guidelines for government policies.
- Absolute veto against bills changing the budget.
- In state of defence the chancellor executes the supreme command over the army.
- A chancellor can only be voted out of office if at the same time a new chancellor is elected (constructive vote of no confidence).
  - 1972: Rainer Barzel vs. Willy Brandt → not successful, Brandt remained in office
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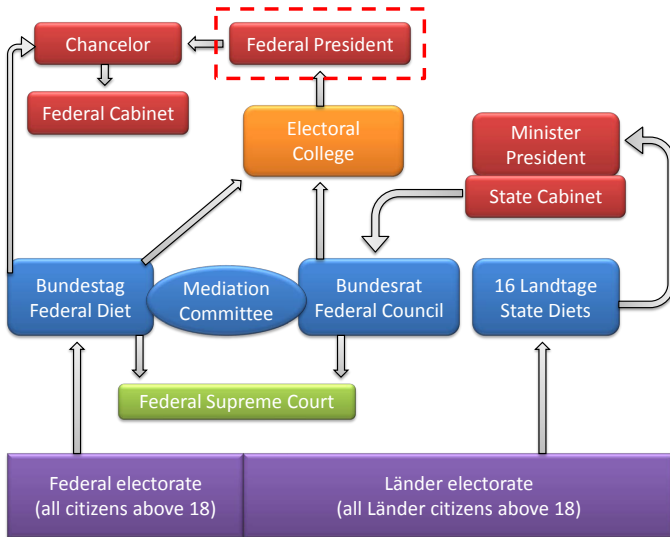
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- Generally mostly representative and bureaucratic functions (e.g. signing of laws)
- Speeches as an important ways to influence public opinion → but no daily politics
- Reserve functions in times of political crisis (lack of parliamentary majority)
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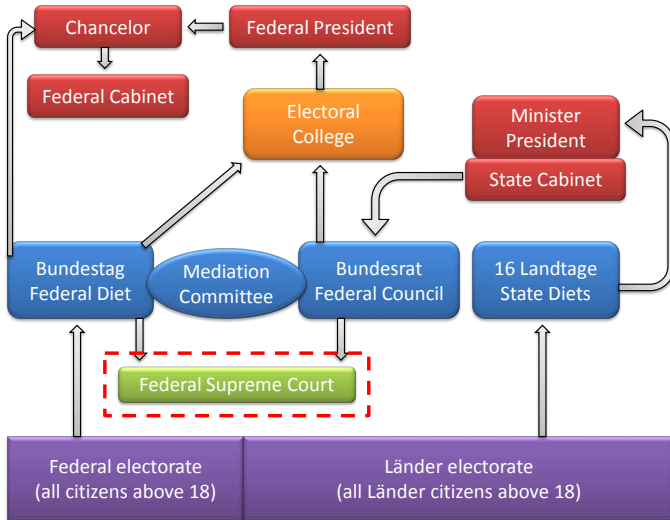
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- The judiciary shall control the executive and the legislative.
- The Federal Supreme Court is the guardian of the Basic Law
- One half of the justices is elected with 2/3 majority by the Bundesrat and the other half with 2/3 majority by a special electoral committee from the Bundestag → need to form informal coalitions
- The justices at the Supreme Court are elected for 12 years. No reelection possible.

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- Constitutional complaint: can be made by any person who feels his or her constitutional rights been violated.
  - Makes the majority of the Supreme Courts procedures.
  - Only a very small number is successful (2.5%)
- Abstract regulation control (initiated by a political institution)
- Specific regulation control (initiated by a court regarding a specific legal case)
- Federal and state-federal disputes
- Prohibition of a political party
  - successful: Socialist Reich Party (SRP) - a Neo-Nazi party in 1952 and the Communist Party of Germany (KPD) in 1956
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- Manfred, G. Schmidt (2008): Das politische System der Bundesrepublik Deutschland (2nd Edition), München, C.H. Beck.
- Most pictures (except the chancellor portraits) are from the site „German History in Documents and Images“:  
<http://germanhistorydocs.ghi-dc.org/index.cfm>
- English version of the German Basic Law:  
<https://www.btg-bestellservice.de/pdf/80201000.pdf>

## Further reading:

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- David P. Conradt (2009): The German polity (9th Edition),
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