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# A STABLE POLITICAL SYSTEM

The Basic Law of the Federal Republic of Germany has proved to be a solid basis for the development of a stable democratic society and a well-functioning political system.

With this system the Federal Republic of Germany has resumed Germany's democratic tradition following the years of National Socialist tyranny. The Federal Republic's state symbols indicate this continuity: the colors of the federal standard – black–red–gold – have since the 19th century stood for Germany's freedom, democracy and unity. The same aims are also linked with the national anthem and the federal coat of arms with displayed eagle, which was introduced at the time of the Weimar Republic.

*Villa Hammerschmidt, official residence of the Federal President in Bonn*



Bundesbildstelle

# Federal Republic of Germany

## CONSTITUTION AND STRUCTURE



*The ninth Federal Convention was held in Bonn's Beethovenhalle on 23 May 1989 to reelect Federal President Richard von Weizsäcker. – Professor Rita Süßmuth, President Bundestag, about to announce the result of the election —*

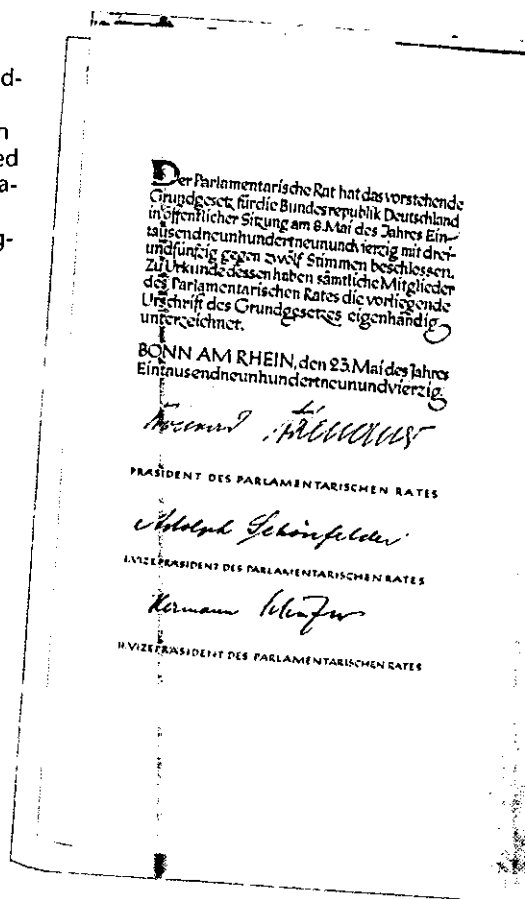
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# HISTORY

The surrender of the German armed forces on 8 May 1945 marked the end of National Socialist tyranny in Germany. France, the United Kingdom, the Soviet Union and the United States of America occupied the country and assumed supreme authority. One of their aims as occupying powers was to give the German people the opportunity to prepare for their return to democracy and peace.

Owing to the growing differences between the allies, however, the joint administration of Germany, which had been divided into four occupation zones, became increasingly difficult and the occupying powers were not able to agree on the country's future.

On 1 July 1948, the three Western powers authorized the Minister Presidents of the Laender (states) in their zones to convene a constituent assembly to draw up a democratic, federal constitution.



public welfare, public transport, as well as water and energy supply. Their revenue takes the form of rates and allocations from the states. Districts or counties comprising several municipalities also have their own elected parliaments and rights of self-government. Like the municipalities, they are at the same time the lowest tier of government administration.



Wolfgang Buhr

Session of the Lower Saxony Parliament, Hanover

Federal States

Administration

Schools, education

Waste disposal, etc.

Hospitals, sport, recreation

Social assistance, youth welfare, etc.

11

12

13

22

23

Local Authorities

## THE LAENDER (FEDERAL STATES)

The Laender of the Federal Republic of Germany have their own sovereignty which is not derived from the federation. They are public entities with their own authority, not merely provinces or subordinate administrative agencies. Unless authority has been vested in the federation by the Basic Law, it is the Laender who are responsible for legislation, government and administration of justice. Although the most important areas of legislation are today the domain of the federation, the Laender, too, have considerable jurisdiction, especially in the fields of culture, education and public safety.

Generally speaking, the federal states implement all laws, including those enacted by the federation. Under the Basic Law, the federation has only narrowly defined administrative powers.

The advantage of this decentralization of public authority lies in the fact that decisions are usually taken where their effects can best be judged. In this way, greater consideration is given to local and regional conditions and to each particular situation.

Each federal state has an elected parliament, a government elected by parliament, its own administrative authorities, and an independent judiciary.

The municipalities have a special status within the states. Under the Basic Law they are allowed to regulate all local matters on their own responsibility within the scope of the law. They have enjoyed this right of self-government since the beginning of the 19th century. It is exercised primarily by the elected town council. The main responsibilities of the municipalities are town planning, cultural and educational affairs,

## ADOPTION OF THE BASIC LAW

Following initial hesitation by some West German politicians who feared that the formation of the Western occupation zones into a state would deepen the division of Germany, a Parliamentary Council was convened on 1 September 1948.

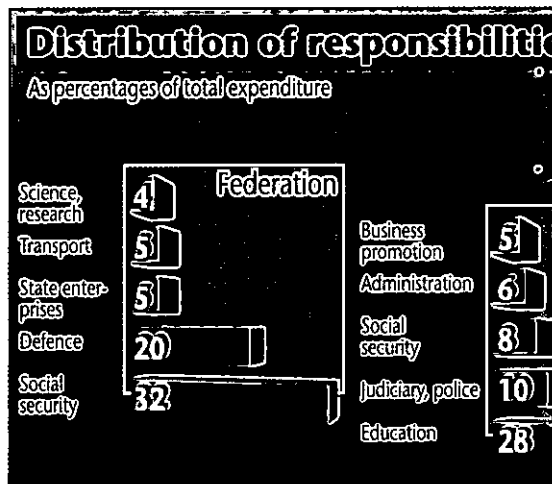
This assembly, whose 65 members had been elected by the state parliaments, drafted in the following eight months a "Basic Law for the Federal Republic of Germany". They set about their difficult task with the determination to establish a constitutional basis for the integration of the Laender in the Western zones. In spite of the differences over fundamental issues, especially the question of federalism, the result proved acceptable to the political parties in Germany and did not conflict with the wishes of the Western powers.

They created a Basic Law which was an attempt to lay the foundations for a stable democracy and thus prevent the kind of situation from developing which in the thirties, following the decline of the Weimar Republic and hence of democracy, had opened the door to Nazi coercion. At the same time, it marked the new state's determination to preserve Germany's unity and to foster peace in a united Europe and throughout the world.

The Parliamentary Council adopted the Basic Law with a large majority on 8 May 1949. This constitutional instrument, after having been approved by the military governors, was endorsed by the parliaments of all the Laender except Bavaria and became effective after 23 May 1949, the day on which it was promulgated.

At first, the occupying powers retained substantial sovereign rights, but these were gradually transferred to the Federal Republic of Germany. The allies are still responsible for Germany as a whole, however.

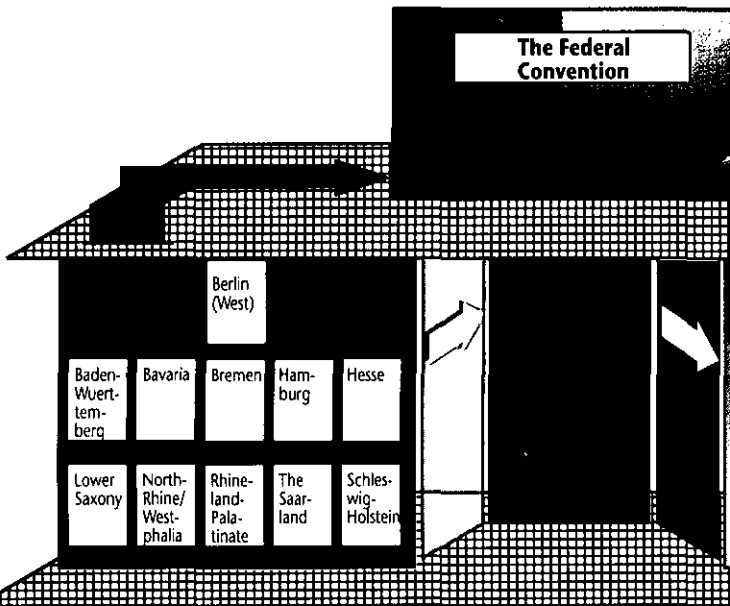
*The new state's foundation is the Basic Law for the Federal Republic of Germany, which entered into force 40 years ago on 23 May 1949.*



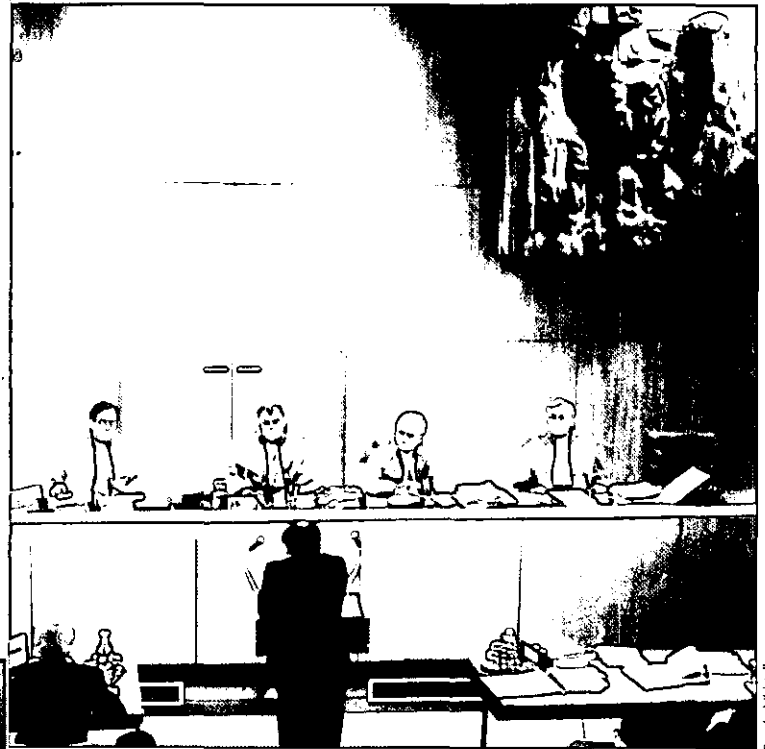
# BASIC ELEMENTS OF THE CONSTITUTION

The Basic Law covers all aspects of the political and social life of the Federal Republic of Germany. Its provisions are not confined to statements of principle regarding the structure and function of the body politic. Indeed, the Basic Law created a system of values within which protection of individual freedom and human dignity is the highest principle of law. However, it does not perceive the citizen as an individual apart from the rest but as a person living in the community and linked with it in many ways. In order to emphasize, therefore, that it is the duty of the state to serve the people, the basic rights were given pride of place in the Basic Law.

The basic rights, which, being a system of values are the very core of the Basic Law, protect the individual against encroachments by the state and insure that he can play his proper role in the life of the community. They include the classical freedoms such as the right to life and health, freedom of religion or creed, conscience and opinion, freedom of association and assembly, privacy of mail, freedom of movement, privacy of the home, and the right of ownership. Also guaranteed by the constitution, apart from the general principle of non-discrimination and



**The constitutional organs of the Federal Republic of Germany**



*A chamber in the Federal Constitutional Court, Karlsruhe*

Bundesbildstelle

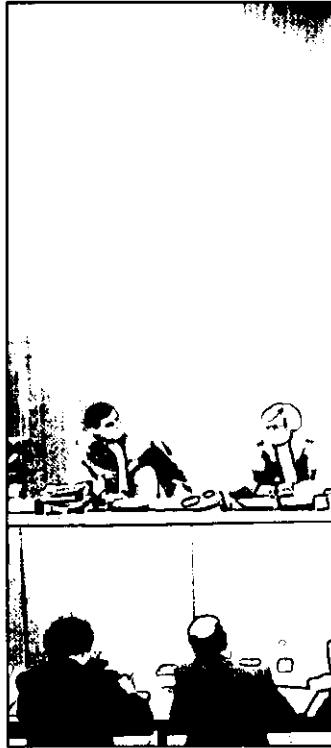
# THE FEDERAL COURTS

Administration of justice in the Federal Republic of Germany is divided between the federation and the states. Judicial power is exercised by independent judges. The system affords complete legal protection through the independent branches of the judiciary. Apart from the ordinary courts of civil and penal law, there are also administrative, labor, social and tax courts. At the head of each branch is a federal court, the lower courts being courts of the federal states. The main responsibility of the supreme federal courts is to insure uniform interpretation of the law.

The Federal constitutional Court is a constitutional organ which has no identical historical precedent. It reviews legislation to determine whether it is compatible with the Basic Law and settles disputes between the federation and the states or individual federal agencies. It reviews federal and state laws on application as to their conformity with the Basic Law and may overrule such legislation. Any person may claim before the Constitutional Court that his basic rights have been violated by a government agency.

Half of the judges of the Federal Constitutional Court are elected by the Bundestag and half by the Bundesrat. They serve for a period of 12 years.

In over 50,000 proceedings (more than 90 percent of them constitutional complaints) since its inception as the "guardian of the constitution", the Federal Constitutional Court has insured that basic rights are observed and handed down decisions that have had far-reaching political, legal economic and financial consequences.



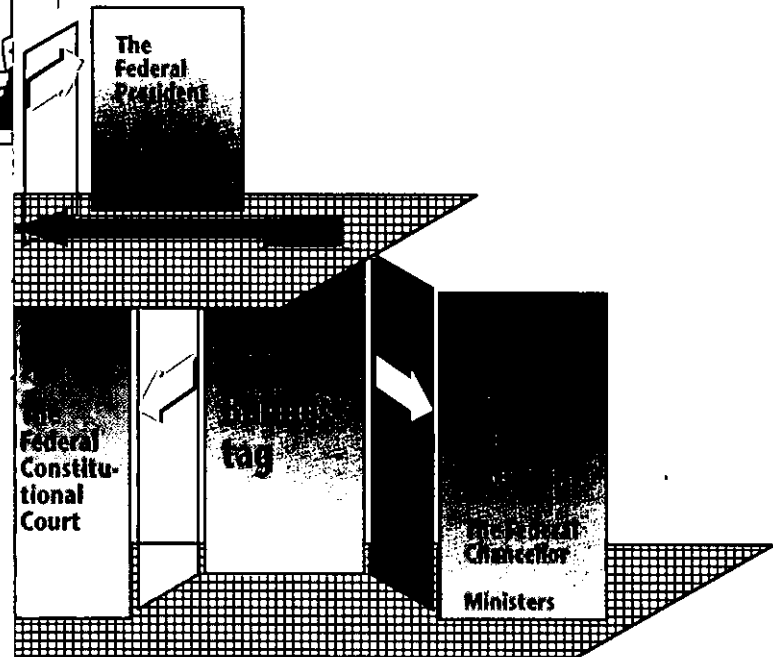
equal rights for men and women, are protection of marriage and the family, the freedom to choose a trade or profession, as well as the right to seek asylum and submit petitions.

The basic rights are directly applicable law, which means that the authorities are bound to observe the relevant constitutional provisions. The scope of some rights may be limited by law, but the inherent guarantee of protection must never be jeopardized. The Basic Law thus affords much greater protection for basic rights than previous constitutions.

According to Article 20, four basic principles determine the political and social structure of the Federal Republic of Germany. It says that it is a democracy, a state based on the rule of law, a social state, and a federal state.

Under the democratic principle, sovereignty and hence all authority emanates from the people. The Basic Law has given effect to this principle in the form of a representative democracy in which state authority is exercised indirectly by elected representatives of the people. It provides for direct decisions by the people (referendums) only where parts of the federal territory are to be reapportioned or reorganized.

According to the rule-of-law principle, all state action is bound by law and justice. The functions of the state are exercised by independent legislative, executive and judicial authorities. All government measures may be reviewed by independent judges to determine whether they meet the requirements of the law.



ederal Republic of Germany

The social-state principle was established mainly to protect the weaker members of society. The state is required to insure that every member of the community is free from want, can live in circumstances worthy of human dignity, and has a fair share of the nation's general prosperity.

The federal system was chosen because of Germany's deep-rooted federalist tradition. This system makes it possible to develop regional characteristics and leaves scope for differentiated cultural and political competition. At the same time, the division of legislative, executive and judicial powers between the federation and the states prevents excessive concentrations and hence the possible abuse of power.

The states of the Federal Republic of Germany established by the Basic Law are Baden-Wuerttemberg, Bavaria, Berlin (West), Bremen, Hamburg, Hesse, Lower Saxony, North-Rhine/Westphalia, Rhineland-Palatinate, the Saarland and Schleswig-Holstein. Although Berlin may not be governed by the federation on account of the fact that allied rights still prevail in this city, The Quadripartite Agreement of 3 September 1971 endorsed the close ties between Berlin (West) and the Federal Republic of Germany.

Chancellor. This coalition was confirmed at the elections in March 1983 and January 1987.

To date, the Federal Republic of Germany has had 15 governments and six Federal Chancellors: Konrad Adenauer (1949-63), Ludwig Erhard (1963-66), Kurt Georg Kiesinger (1966-69), Willy Brandt (1969-74), Helmut Schmidt (1974-82), and the incumbent, Helmut Kohl (since 1982).



Chancellor  
Dr. Helmut Kohl



On 12 March 1987 Federal President Richard von Weizsäcker received Chancellor Helmut Kohl and the members of his cabinet to present their letters of appointment for the 11th legislative term



Vice-Chancellor Hans-Dietrich Genscher,  
Federal Minister for Foreign Affairs

The Federal Government at work

# THE FEDERAL GOVERNMENT

The Federal Government is the supreme executive authority. It consists of the Federal Chancellor and the federal ministers, who are appointed by the Federal President on his proposal. The Federal Chancellor is elected by the Bundestag.

The Basic Law accords the Federal Chancellor considerable powers to insure the proper functioning of government. It is therefore not without good reason that the Federal Republic's system of government is referred to as a "Chancellor democracy". The Chancellor lays down government policy guidelines, within which the federal ministers head their departments on their own responsibility.

The government has to account to parliament for its actions. It is also possible for the Bundestag to replace the government by means of a vote of no confidence. Such a motion may only be directed against the Chancellor, not against ministers. In order to prevent parliament from ousting the cabinet without being able to produce a majority in support of a new government, the Basic Law gave the no-confidence motion a constructive nature, that is to say, the Bundestag can only remove a Chancellor (and with him his cabinet) if at the same time a majority of members vote a new Federal Chancellor into office. Two attempts have been made to overthrow the Chancellor by means of a constructive vote of no confidence. Only once has this succeeded, in 1982, when the CDU/CSU and F.D.P. overthrew Helmut Schmidt and elected Helmut Kohl as the new

# BUNDESTAG AND BUNDESRAT

The German Bundestag is the supreme legislative authority. Its members are elected by the voting public (German citizens aged 18 and over) in general, direct, free, equal and secret selections for a four-year term. The electoral system is a combination of proportional representation and direct election of candidates. Half of the members are elected directly, the other half via the state lists of candidates nominated by their respective parties.

In the general election held on 25 January 1987, 519 members were elected to the Bundestag. Twenty-two of them come from Berlin (West) and they have only limited voting rights on account of allied reservations.

The Basic Law emphasizes the special role of the parties as representing the political will of the people. They usually nominate the candidates for the elections. In order to insure that parliament and government can function properly, only parties which poll at least five percent of the votes or win three seats under the first-past-the-post system may be represented in the Bundestag. Eleven parties were represented in the first



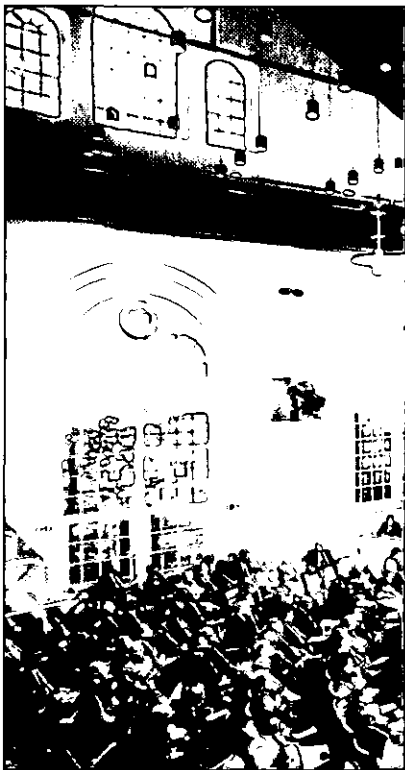


German Bundestag elected in 1949, but their number quickly fell to four. In March 1983 a fifth party, the Greens, made its debut in the Bundestag, joining the Christian Democratic Union/ Christian Social Union (CDU/CSU), the Free Democratic Party (F.D.P.), and the Social Democratic Party of Germany (SPD). Since the constructive vote of no confidence on 1 October 1982, the CDU, CSU and F.D.P. have been in coalition with a majority in parliament.

Members of Parliament are not bound by instructions and are answerable to their conscience only. Consequently, a member does not have to relinquish his seat even if he leaves his party. The parties form groups (parliamentary parties) in the Bundestag. The size of the groups determines the composition of the parliamentary committees. The German Bundestag has four main functions: it is the legislative body, it elects the Federal Chancellor, it keeps check on the government, and it is the political representative of the German people.

Parliament's constitutional right to exercise control over the government also permits minority groups in the Bundestag to demand information from the government or request the appointment of a committee of inquiry.

Bills may be introduced from the floor of the Bundestag, by the Bundesrat (the Federal Council representing the constituent states) or, as is usually the case, by the government. They are given three readings in the Bundestag and are thus often amended. The bulk of the legislative process takes place in the committees since the House does not have the time to deal with the many technical and other details. After the committee stage, the final vote is taken after the third reading during a plenary session. A bill has been adopted if it receives a majority of the votes cast. Bills proposing amendments to the constitution require a two-thirds majority.



*Federal President Richard von Weizsäcker presenting the Silver Laurel Leaf to Anja Fichtel, who won two Olympic gold medals for fencing*

ce and the President, on the Chancellor's proposal, dissolved the Bundestag. In each case new elections had to be held.

The Federal President examines legislation in the making to insure that it is in conformity with the constitution and finally promulgates laws in the Federal Law Gazette. He also appoints and dismisses federal judges, federal civil servants, and officers and

non-commissioned officers of the Federal Armed Forces. He exercises the right of clemency on behalf of the federation and he confers the Order of Merit on persons who have served the Federal Republic of Germany with distinction.

The current and sixth Federal President is Richard von Weizsäcker. He assumed office on 1 July 1984 and was reelected in 1989. His predecessors were Theodor Heuss (1949-59), Heinrich Lübke (1959-69), Gustav Heinemann (1969-74), Walter Scheel (1974-79), and Karl Carstens (1979-84).

# THE FEDERAL PRESIDENT

The Federal President is the head of state of the Federal Republic of Germany. He is elected for a five-year term by the Federal Convention and may be reelected once. The Federal Convention convenes for this purpose only. It consists of members of the German Bundestag and an equal number of delegates nominated by the state parliaments.

The architects of the Basic Law, deliberately pruning the powers that had been exercised by the Reich President during the Weimar Republic, gave the Federal President a merely representative and integrative function. He is not without political influence, however.

The Federal President represents the Federal Republic of Germany in its relations with other countries. He signs treaties, accredits and receives envoys, and pays state visits to other countries as an ambassador of goodwill.

When a government is formed it is his task to nominate a candidate for the office of Federal Chancellor. He also appoints and dismisses federal ministers on the proposal of the Chancellor. In certain cases, that is to say, if a candidate for the Chancellorship fails to win a majority in the Bundestag or if parliament carries a motion of no confidence in the Chancellor, the Federal President can dissolve the Bundestag. This was the case in 1972 and 1983, when the Chancellor failed to win a vote of confiden-



*Session of the German Bundestag in the old waterworks.*



*The Federal President on his state visit to London*

The Federal Council, the second legislative body, brings the federal element into the legislative process. It is composed of representatives of the state governments who, depending on the size of the state's population, have three, four or five votes.

Laws passed by the German Bundestag require the consent of the Bundesrat where certain matters affecting the states are concerned, which is now mostly the case. Even where its consent is not required, the Bundesrat has a right of objection, though it can be overruled by the Bundestag. Both Bundestag and Bundesrat may, in cases where they disagree, submit a bill to the Mediation Committee, which is composed of members of both Houses and usually works out a compromise.

The Bundesrat proposes amendments to federal laws, but although the interests of the two Houses are often not identical, and in spite of the party political composition of the Bundesrat, the number of cases when a bill is rejected by the Bundesrat are very few.

**Debate in the German Bundestag: Dr. Hans-Jochen Vogel, Chairman of the SPD and Chairman of the SPD Parliamentary Group**



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*The seat of the Federal Council, Bonn*

**Distribution of seats in the German Bundestag**

