

The Political System and the Basic Law

As explained in Chapter 7, at the end of World War II the central government of Nazi Germany was dismantled and, initially, governments and political parties were permitted to reorganize only on a state (*Länder*) basis. In 1948, the leaders of each of the *Länder*, most of them called Minister Presidents, met and established a Parliamentary Council representing their state legislatures for the purpose of drafting a constitution for the western zones of Germany. They adopted the name "Federal Republic of Germany" (Bundesrepublik Deutschland) and, on May 23, 1949, they passed the Basic Law (das Grundgesetz) of the Federal Republic of Germany. With the passage of the Basic Law, a new German state was founded for the western zones of Germany.

The Basic Law (constitution) is notable on a number of levels. It clearly takes into account the problems with the democratic government of the Weimar Republic and the Nazi dictatorship that followed. It also reflects the realities of Europe in 1949 and contains provisions that would permit the two German states to unify in 1990. Three important aspects follow.

The Basic Law was intended to serve for a "transitional period" (as stated in the preamble) until that day when "in other parts of Germany it shall be put into force on their accession" (Article 23). The preamble also states that the drafters of the document "acted on behalf of those Germans to whom participation was denied." In other words, from the day of the birth of the Federal Republic of Germany, it was assumed that the new state spoke for all Germans, including those living in the East, and that reunification of the two parts of Germany would occur in the future. The government relied upon Article 23 as the legal basis for uniting Germany in 1990.

There is a great emphasis in the Basic Law on human rights. The first 19 articles of the document are about basic individual rights (Protection of Human Dignity; Personal Equality Before the Law; Freedom of Faith and Creed; and so on). After stating these rights, the Basic Law gets down to how the government will work. Compare the Basic Law with the US Constitution, which is concerned first with the powers and functions of government branches, and then with human rights in the Bill of Rights (the first 10 amendments to the Constitution, added on three years later).

There are safeguards built into the system of government provided for in the Basic Law that guarantee that small, extremist groups will not disrupt the functioning of democracy. The safeguards are meant to prevent a repetition of the chaos and stagnation of the Weimar period that allowed the rise of Nazism. As in the US, the Federal Republic of Germany has a federal form of government, with some rights given to the federal

(national) government and others to the states (*Länder*).

The sixteen *Länder* (in English) of the Federal Republic of Germany today are:

Baden-Württemberg	North Rhine-
Bavaria	Westphalia
Berlin	Rhineland-Palatinate
Brandenburg	Saarland
Bremen	Saxony
Hamburg	Saxony-Anhalt
Hessen	Schleswig-Holstein
Lower Saxony	Thuringia
Mecklenburg-Western Pomerania	

Before reunification, West Berlin applied the laws of the Federal Republic of Germany only after they had been adopted by the city parliament. The Berlin Parliament designated representatives to the Bundestag (federal legislature), but these representatives did not have a full vote and were not popularly elected. Although West Berlin was considered part of the Federal Republic of Germany, sovereignty over the city was until recently exercised by France, Great Britain, and the United States in the western sectors, thus the city was not entirely integrated into the Federal Republic. This "special status" changed after Germany, and Berlin, unified. All four powers relinquished their rights of sovereignty in West and East Berlin; now Berlin can operate like any other state in the Federal Republic. Each of the *Länder* has its own constitution (which corresponds to the Basic Law), legislature, prime minister, and cabinet. All functions that are not granted to the federal government in the Basic Law belong to the individual *Länder*. Federal rights include functions like foreign policy, the military, national finances, the postal system, etc. State functions are matters like cultural affairs, police, and education. As in the United States, this division between federal and state rights can be confusing, but the decentralization that comes with the System is also a safeguard against abuse of power by a ruling national government.

As in most western European democracies, the Basic Law provides for a parliamentary form of government. The essential power of the state lies with the parliament, the Bundestag. When voters go to the polls in national elections, they do not vote for one man for president, another (possibly from a different party) for senator, and yet another for a judgeship or a congressional position, as happens in the United States. Rather, they vote for a slate of representatives of one of the major German political parties. In the past, there were typically four parties. A percentage of representatives that reflects the percentage of votes cast for each party is then sent to the Bundestag. In order to send

representatives to the Bundestag, a party must have received at least 5 percent of the votes cast. (This is one of the safeguards against fringe groups mentioned above.) The party with the greatest percentage in the Bundestag then chooses the head of government, the federal chancellor (Bundeskanzler). The Bundeskanzler is responsible for setting government policy and appointing and dismissing the Federal Ministers (similar to the cabinet in the United States), functioning independently of parliament in this latter regard. Since the founding of the Federal Republic of Germany, there have been six federal chancellors.

It is possible in a parliamentary form of government for representatives of two parties to combine their forces into a coalition that produces the largest percentage in parliament and thus takes control of the government. Except for elections in 1957, West Germany has always been ruled by a coalition of parties. In 1969, for example, the SPD combined forces with the smaller FDP; Willy Brandt then Helmut Schmidt served as chancellor. When the coalition fell apart in 1980, the FDP lent its support to the CDU/CSU, formed the "coalition of the center," and Helmut Kohl became chancellor. When a coalition is formed, members of the "second party" (the FDP, here) are usually granted key ministerial positions in the new government. A

The six major political parties active in the Federal Republic of Germany today are the following:

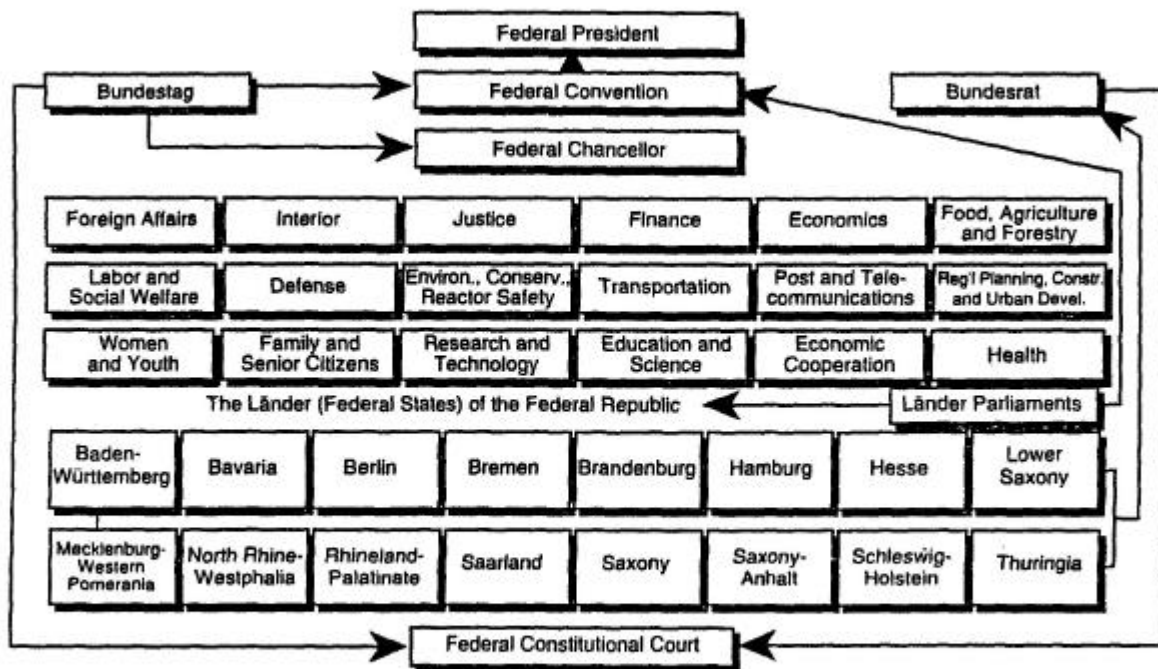
- CDU:** Christian Democratic Union (*Christliche Demokratische Union Deutschlands*) and its Bavarian branch, the
- CSU:** Christian Social Union (*Christlich-Soziale Union*)
- SPD:** Social Democratic Party (*Sozialdemokratische Partei Deutschlands*)
- FDP:** Free Democratic Party (*Freie demokratische Partei*)
- The Greens:** (*Die Grünen*)
- PDS:** The Party of Democratic Socialism (*Partei des demokratischen Sozialismus*); formerly the Social Unity Party (SED) of East Germany

The CDU/CSU always form one block in the Bundestag. The Greens, who have had a national organization only since 1979, grew out of a movement whose goals are the protection of the environment, limits on industrial growth, curtailment, of nuclear energy, they merged with Alliance 90 (Bündnis 90), a political offshoot of the dissident movement in East Germany that was unwilling to be incorporated into any of the traditional political parties.

chancellor can only be removed from office if the Bundestag is able to form a new majority in parliament to elect a successor, thus ensuring governmental stability and continuity.

In addition to the Bundestag, the Länder are represented in Bonn by the Bundesrat, the Federal Council of the States. Members of the Bundesrat, who are not elected directly, represent the state cabinets (the majority coalitions in each state). They are sent from the states and are empowered to

State Structure of the Federal Republic of Germany



reject federal laws passed by the Bundestag. In this way, states are guaranteed that the parliament will not make decisions and pass laws that go against their will.

Every five years, the members of the Bundestag, together with an equal number of representatives of the Länder legislatures, attend a Federal Convention, the purpose of which is to elect a federal president (Bundespräsident). Not to be confused with the President of the United States (whose function is closer to that of the chancellor), the federal president acts as head of state, representing Germany abroad and often functioning as a voice of

the nation regarding ideas not tied down to the politics of the hour.

The Basic Law and the constitutional rights it embodies are protected by the Federal Constitutional Court (Bundesverfassungsgericht) located in the city of Karlsruhe, the highest court in the land, which acts as "the last word." The court can act on infringement on individual rights and conflicts between branches of the government. It also decides whether a political party is to be declared legal, and whether a law requires the approval of the Bundesrat.

Below, in the following space draw a chart that shows the branches of the United States federal government and the connections between them.