

Germany

FREE

94
/100

<u>Political Rights</u>	39 /40
<u>Civil Liberties</u>	55 /60

LAST YEAR'S SCORE & STATUS

94 /100 **Free**

Global freedom statuses are calculated on a weighted scale. See the methodology.



Overview

Germany is a representative democracy with a vibrant political culture and civil society. Political rights and civil liberties are largely assured in law and practice. The political system is influenced by the country's totalitarian past, with constitutional safeguards designed to prevent authoritarian rule. Although Germany has generally been stable since the mid-20th century, political tensions have grown in recent years following a sharp increase in the number of asylum seekers in the country, and the growing popularity of right-wing populist movements.

Key Developments in 2022

- Following the Russian military invasion of Ukraine in February, more than one million Ukrainian refugees and asylum seekers entered Germany.
- In December, German security services conducted raids in more than 150 locations across the country and arrested 25 people affiliated with the so-called Reichsbürger (Citizens of the Reich) movement, a far-right terrorist group accused of plotting to violently overthrow the government. Investigations into the movement remained ongoing at year's end.
- Investigations into the so-called Cum-Ex tax fraud scandal—a years-long scheme in which participants fraudulently obtained tax rebates, resulting in the theft of at least 10 billion euros (\$10.7 billion) from the state—continued throughout the year. In August, Chancellor Olaf Scholz was questioned by members of Hamburg's state parliament over allegations that he was involved in the scandal while mayor of Hamburg in 2016–17; Scholz has denied any wrongdoing.

Political Rights

A. Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections?

4/4

Germany's head of state is a largely ceremonial president, elected by the Federal Convention, a body formed jointly by the Bundestag (Federal Parliament) and state representatives. The president can serve up to two five-year terms. Former foreign minister Frank-Walter Steinmeier was reelected for a second term in February 2022.

The federal chancellor—the head of government—is elected by the Bundestag and serves for the duration of a legislative term, unless the Bundestag votes to elect a replacement in a “constructive vote of no confidence.” Incumbent chancellor Olaf Scholz was elected by the Bundestag following free and fair federal elections in 2021. Scholz, of the center-left Social Democratic Party (SPD), leads a coalition government composed of three parties: the SPD, the Green Party, and the liberal Free Democratic Party (FDP).

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections?

4/4

The parliament includes a lower house (Bundestag), and an upper house, the 69-seat Federal Council (Bundesrat), which represents the country's 16 federal states. The Bundestag is elected at least every four years through a mixture of proportional representation and single-member districts. The 2021 elections were competitive and deemed free and fair by local and international election monitors.

In the 2021 elections, the SPD won 206 seats, gaining a narrow majority over the center-right Christian Democratic Union (CDU) and its Bavarian sister party, the Christian Social Union (CSU). The CDU-CSU won 196 seats—a nearly 9 percent decline from the 2017 elections, and the party's worst result since 1949. The Greens won a record 118 seats, and the FDP won 92; following the elections, both parties entered a coalition government with the SPD. The right-wing populist Alternative for Germany (AfD) took 83 seats, and the far-left party the Left, widely viewed as a successor to the East German communists, took 39. One representative from the Danish minority party South Schleswig Voters' Committee (SSW) also entered the Bundestag.

In Germany's federal system, state governments have authority over matters such as education, policing, taxation, and spending. State governments appoint Bundesrat members, and in this manner can influence national policies.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?

4/4

Germany's electoral laws and framework are fair and impartial. German voters cast two ballots—one for a candidate in their constituency and another for a party, with the latter vote determining the seat share a party receives in the Bundestag. If a party wins more seats in the first vote than are permitted by results of the second, it gets to keep these “overhang seats”—yet to avoid distorting the results of the second vote, all other parties receive “balance seats.” With 736 lower-house members, Germany has the world's second-largest national parliament, after China.

To curtail the increasing size of the Bundestag, its members voted to adopt a two-step electoral reform in October 2020. The first step took effect ahead of the 2021 elections and includes a requirement that one party must gain more than three overhang seats for balance seats to be allocated to the other parties. The second step will reduce the number of constituencies, lowering the number of candidates able to win overhang seats in future elections.

B. Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings?

4/4

While the CDU–CSU and SPD have historically dominated German politics, other parties have increased their support in recent years. Parties do not face undue restrictions on registration or operation. Under electoral laws that, for historical reasons, are intended to restrict the far-left and far-right, a party must receive either 5 percent of the vote or win at least three constituency seats directly to gain representation in the parliament. The constitution makes it possible to ban political parties, although a party must be judged to pose a threat to democracy for a ban to be legal, and no party has been successfully banned since 1956.

Support for the AfD has risen in recent years as the party has moved further to the radical right. In 2022, the AfD held seats in the European Parliament, Bundestag, and all state parliaments with the exception of Schleswig-Holstein. While its popularity has shaken the German political system, most parties oppose the AfD and eschew coalitions that include it.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections?

4/4

Opposition parties in Germany have a realistic opportunity to increase their support and gain power through elections.

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?

4/4

The German government is democratically accountable to the voters, who are free to throw their support behind their preferred candidates and parties without undue influence.

B4 0-4 pts

Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities?

3/4

The constitution gives all citizens age 18 or older the right to vote, to stand for election, and to hold public office. However, some groups are politically underrepresented. Women hold only 34 percent of Bundestag seats. Some 11 percent of Bundestag members are from immigrant backgrounds, having at least one parent born without German citizenship.

Naturalization rates are low, leading to large numbers of long-term residents who cannot vote in federal elections. About 8.7 million foreign-born permanent residents were unable to vote in the 2021 federal elections, due in part to restrictive citizenship and voting laws.

C. Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government?

4/4

Democratically elected representatives decide and implement policy without undue interference.

C2 0-4 pts

Are safeguards against official corruption strong and effective?

4/4

While Germany generally maintains strong and effective corruption safeguards, the Council of Europe's Group of States against Corruption (GRECO) has criticized the country for its opaque party-financing regime and for a lack of lobbying regulations. To increase transparency, the former SPD and CDU-CSU coalition government introduced a lobby registry in 2021; the registry entered into effect in January 2022, requiring individuals representing interest groups to register before contacting officials in the federal government.

The June 2020 collapse of payment processing firm Wirecard brought scrutiny on the German financial regulatory system. Wirecard filed for bankruptcy after its accounting firm refused to sign off on financial statements over evidence of fraud.

Wirecard chief executive Markus Braun was arrested on fraud and embezzlement charges in 2020; Braun's trial began in December, and was ongoing at year's end.

Investigations into the so-called Cum-Ex scandal—a share-lending scheme in which participants fraudulently obtained tax rebates, resulting in the theft of at least 10 billion euros (\$10.7 billion) from the state between 2001 and 2016—continued in 2022. In December, Hanno Berger, a former tax official considered one of the leading figures in the scandal, was convicted on three counts of tax evasion and sentenced to eight years in prison by a state court in Bonn. Chancellor Scholz has also been accused of having ties to the scandal. In August, Scholz appeared before a parliamentary committee in Hamburg to answer questions about allegations that, while mayor of Hamburg in 2016–17, he colluded with the owners of a large bank in the city to help them avoid paying back approximately 47 million euros (\$48 million) in refunded taxes. Scholz has denied any wrongdoing.

Germany is obligated to enhance legal protections for whistleblowers under an EU directive issued in 2019. The Bundestag passed the German Whistleblower Protection Act in December 2022; the bill remained awaiting consideration by the Bundesrat at year's end.

In August, the government announced a range of new initiatives intended to combat the relatively high levels of financial crime in Germany, including the creation of a new federal financial crime agency.

C3 0-4 pts

Does the government operate with openness and transparency?	4/4
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The government is held accountable for its performance through open parliamentary debates. In 2018, the government introduced question time, in which the chancellor answers questions from the parliament three times per year. However, transparency is limited by an overburdened bureaucracy and inconsistent state-level standards.

Civil Liberties

D. Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media?

4/4

Freedom of expression is enshrined in the constitution, and the media are largely free and independent. Hate speech, such as racist agitation or antisemitism, is punishable by law. It is illegal to advocate for Nazism, deny the Holocaust, or glorify the ideology of Hitler.

Journalists sometimes face harassment and abuse, especially via social media, as well as physical attacks when reporting on right-wing demonstrations. Such attacks were common in 2021 and 2022, especially against journalists reporting on far-right *Querdenken* (Lateral Thinking) demonstrations against COVID-19 restrictions.

While press freedom in Germany remains robust, it has faced obstacles in recent years, including decreasing media pluralism. The privacy of communications between journalists and their sources has been affected by surveillance provisions in the Federal Intelligence Service (BND) Act, ruled unconstitutional in 2020. Though a revised bill was passed by the Bundestag and Bundesrat in March 2021, Reporters Without Borders (RSF) says the bill still offers insufficient protections for journalists.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private?

3/4

Freedom of belief is legally protected. However, eight states have passed laws prohibiting schoolteachers from wearing headscarves, while Berlin and the state of Hesse have adopted legislation banning headscarves for civil servants.

Antisemitism in Germany has been on the rise in recent years. The federal Ministry of the Interior recorded more than 3,000 criminal offenses against Jewish individuals and organizations in 2021, though the number of unreported cases was likely many times higher. Querdenken protesters regularly invoke antisemitic conspiracy theories.

Islamophobia also remains a concern. German police recorded at least 662 politically motivated attacks against Muslim individuals and institutions in 2021.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination?

4/4

Academic freedom is generally respected, though legal prohibitions on extremist speech are enforceable in educational settings.

In late 2020, university employees—disadvantaged by a newly adopted 12-year time limit on fixed-term contracts—launched a grassroots initiative (#IchBinHanna) seeking a solution to precarious working conditions in academia. In 2021, the topic was taken up for discussion in the Bundestag, and in late 2022, the Bundestag’s Committee on Education, Research, and Technology announced that reforms to the 2007 Science Time Contract Act, which regulates fixed-term employment in academia, were being drafted; the law had not been amended as of year’s end.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?

3/4

Private discussion and internet access are generally unrestricted, but recent developments have prompted concern about government surveillance.

In June 2021, the government passed new legislation allowing the federal police and intelligence services to use spyware to surveil encrypted online messaging services like WhatsApp. Critics have called the legislation unconstitutional, and several German media rights organizations have filed lawsuits asking the courts to

prevent the intelligence services from secretly surveilling the private communications of individuals who are not suspected of criminal activity. The Federal Constitutional Court (BVerfG) has repeatedly rejected such lawsuits. In April 2022, the BVerfG ruled that parts of a Bavarian law granting extensive surveillance powers to the domestic intelligence services in that state were unconstitutional in their scope. Though no changes had been enacted by year's end, the ruling will require the government to undertake reforms of similar laws nationwide.

Watchdogs continue to express concern about a controversial 2015 data-retention law that requires telecommunication companies to store users' telephone and internet data for 10 weeks. Critics view the law as a threat to general privacy and to whistleblowers, who could be punished under a section detailing illegal data handling. The law was later suspended and found to be incompatible with EU law by German courts; the European Court of Justice (ECJ) also found the law to be in violation of EU law in September 2022. Following the ECJ ruling, the government pledged to abolish the current data-retention law, though no action had been taken by year's end.

E. Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly?	4/4
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The right to peaceful assembly is enshrined in the constitution and is generally respected in practice, except in the case of outlawed groups, such as those advocating Nazism or opposing democratic order.

Several large protests took place in Germany during 2022, including widespread demonstrations against rising energy prices, growing inflation, and cost of living increases. Additionally, large demonstrations against COVID-19 measures, which have been held regularly since 2020, continued in 2022. Some of these demonstrations have turned violent; since mid-2020, far-right Querdenken

protesters have assaulted several journalists and repeatedly clashed with police and counterprotesters.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work?

4/4

Germany has a vibrant sphere of nongovernmental organizations (NGOs), which operate freely. In December 2020, the parliament passed a revised tax law that explicitly allowed more NGOs operating in areas including climate change and LGBT+ issues to claim tax-exempt status.

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations?

4/4

Trade unions, farmers' groups, and business confederations are generally free to organize, and play an important role in shaping Germany's economic model.

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?

4/4

The judiciary is independent, and generally enforces the rights provided by Germany's laws and constitution.

F2 0-4 pts

Does due process prevail in civil and criminal matters?

4/4

The rule of law prevails in Germany. Civil and criminal matters are treated according to legal provisions and with due process. However, under “preventive

detention” practices, those convicted of certain violent crimes can be detained after serving their full sentence if they are deemed to pose a danger to the public.

In 2019, the ECJ ruled that German prosecutors were not allowed to issue European arrest warrants because of their dependence on state-level justice ministers. In 2021, the Federal Ministry of Justice and Consumer Protection (BMJV) proposed a draft law that would strengthen the independence of public prosecutors; as of late 2022, the law had not been passed.

The professionalism of law-enforcement officers has come into question following the 2018 discovery of a neo-Nazi network within the Frankfurt police. Since then, police in several cities and states have been accused of espousing extremist and discriminatory sentiments. An investigation into the issue was launched by the federal Ministry of the Interior in October 2020; a May 2022 report noted that investigators uncovered more than 325 cases of far-right extremist activity within Germany’s security forces between July 2018 and July 2021.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?

3/4

Politically motivated crimes against public officials and politicians have increased in recent years. The political establishment was notably shaken by the 2019 murder of Hesse politician Walter Lübcke at the hands of a far-right extremist. In 2021, the Federal Criminal Police Office (BKA) registered 3,889 politically motivated violent crimes, compared to 3,365 in 2020.

Attacks on refugees and refugee housing continued to decline from a peak of 3,500 in 2016. According to the Ministry of the Interior, authorities recorded a total of 711 such crimes between January and September 2022, compared to 965 attacks during the same period in 2021.

In December 2022, German security services conducted raids in more than 150 locations across the country and arrested 25 people affiliated with the so-called Reichsbürger (Citizens of the Reich) movement, a far-right terrorist group accused of plotting to violently overthrow the government. Investigations into the movement remained ongoing at year’s end.

Do laws, policies, and practices guarantee equal treatment of various segments of the population?**3/4**

The constitution guarantees equality and prohibits discrimination based on origin, gender, religion or belief, disability, age, or sexual orientation. However, several obstacles stand in the way of equal treatment of all segments of the population. Race-based discrimination is commonplace, including continued discrimination against Roma and Sinti people.

Women's rights are protected under antidiscrimination laws. However, women face a gender-based pay gap—earning on average 18 percent less per hour than men as of 2021—while men are likelier to hold full-time employment. The differences were significantly higher in West Germany than in East Germany. A law requiring large German companies to reserve at least 30 percent of nonexecutive-board seats for women took effect in 2016, but this law affects a limited number of companies. A similar law went into effect in August 2021, requiring the executive boards of stock market-listed companies to include at least one woman; additionally, if the federal government holds majority ownership of a company, 30 percent of that company's board seats must be reserved for women.

More than one million Ukrainian refugees entered Germany following the Russian military invasion of Ukraine in February 2022. Refugees and asylum seekers are eligible to receive government services, though in practice such services, including housing and employment support, can be difficult to access. Societal discrimination against migrants, refugees, and asylum seekers is common.

New legal guidelines governing blood donation were enacted in 2021, lifting some of the regulations that had previously prevented gay and bisexual men from donating blood. However, LGBT+ activists say that the law still contains discriminatory restrictions. In June 2022, the government announced plans to introduce a new “self-determination law” that would ease regulations restricting the ability of individuals to change their legal name and gender; however, the reforms had not been passed by year's end.

In September 2022, a transgender man died after being violently assaulted during an LGBT+ event in Münster.

G. Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?

4/4

Freedom of movement is legally protected and generally respected, although the refugee crisis and security concerns related to activity by the Islamic State (IS) militant group have led to some restrictions on travel. In 2015, the government introduced legislation allowing the confiscation of identity documents from German citizens suspected of terrorism to prevent them from traveling abroad, particularly to Iraq and Syria.

COVID-19-related restrictions on movement, including the imposition of lockdowns and curfews and restrictions on entry into Germany, were periodically introduced in several states throughout 2020 and 2021; nearly all such restrictions were lifted by June 2022.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors?

4/4

The rights to own property and engage in commercial activity are respected.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?

4/4

The government generally does not restrict social freedoms.

Adoption and tax legislation passed in 2014 gave equal rights to same-sex couples in these areas. The government legalized same-sex marriage in 2017.

In June 2022, the Bundestag voted to abolish a Nazi-era law banning doctors from providing information on abortion services.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic exploitation?

3/4

According to both the BKA and the US State Department's 2022 *Trafficking in Persons Report*, migrants from Eastern Europe, Africa, and Asia are persistently targeted for sex trafficking and forced labor, and ethnic Roma are notably vulnerable to sex trafficking and to other forms of sex work. Germany has seen an increase in prosecutions and convictions of suspected traffickers in recent years.



On Germany

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Global Freedom Score

94/100 Free

Internet Freedom Score

77/100 Free

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2022

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