

Please note that the original language version of this page [de](#) has been amended recently. The language version you are now viewing is currently being prepared by our translators.

German

Swipe to change

National legislation

This page provides you with information on the legal system in Germany.

There is no official translation of the language version you are viewing.

You can access a machine translated version of this content here. Please note that it is only provided for contextual purposes. The owner of this page accepts no responsibility or liability whatsoever with regard to the quality of this machine translated text.

-----English-----BulgarianSpanishCzechDanishEstonianGreekFrenchCroatianItalianLatvianLithuanianHungarian
MalteseDutchPolishPortugueseRomanianSlovakSlovenianFinnishSwedish

The Federal Republic of Germany is a democratic, federal and social constitutional state. Together with the fundamental rights, the principles of a democratic, federal and social constitutional state form the inviolable core of the German constitution, adherence to which is safeguarded by the Federal Constitutional Court.

Sources of law

The Basic Law (Grundgesetz) is the German Constitution, which provides the framework for the legal system and values of the Federal Republic of Germany. The Grundgesetz lays down the following:

the fundamental rights as the supreme guiding principles

the fundamental structure and essential structural principles of the state and its governing bodies

the principles by which elections to the Bundestag (the lower house of the German Parliament) are conducted

the basis for the status and rights of the freely elected members of the Bundestag

how the Bundestag is organised and conducts its business.

Types of legal instruments – description

The main **written sources of German domestic law** are the Basic Law, legislation, statutory instruments and bylaws. In addition, there are **unwritten sources of law**, including the general principles enshrined in international law and customary law. In principle case-law is not a legal source, even though it plays an important role in practice. Certain decisions of the Federal Constitutional Court (Bundesverfassungsgericht) alone have the force of law.

Germany is a federal state made up of 16 constituent states – the Länder. Accordingly, there are **federal laws**, which apply throughout the whole territory of the Federation, and **Land laws**, that only have validity in the Land in question. Each Land has its own constitution and, within the legal framework set by the Basic Law, also has the power to adopt legislation as well as statutory instruments and bylaws.

The **legislative competencies** of the Federation and the Länder are regulated in detail by the Basic Law. The Länder have legislative power, provided such power has not been transferred to the federal government under the Basic Law. The key legislative powers of the Federation are set out in Articles 71 to 74 of the Basic Law. In addition, further legislative powers of the Federation are stipulated at various points in the Basic Law.

Exclusive legislative power of the Federation

In fields subject to the exclusive legislative power of the Federation, the Länder only have the power to adopt legislation where they are expressly empowered to do so by a federal law (Article 71 of the Basic Law).

According to Article 73 of the Basic Law the Federation holds exclusive legislative power in the following fields (inter alia): all foreign policy issues, defence (including the protection of the civil population), citizenship, freedom of movement, passports, residency registration and identity cards, immigration, emigration and extradition, currency and money, the unity of the customs and trading area, air transport, cooperation between the Federation and the Länder concerning criminal police work, and the law on weapons and explosives.

Concurrent legislative powers

In fields subject to concurrent legislation, the Länder have the right to adopt legislation provided and to the extent that the Federation does not exercise its legislative powers in the same field (Article 72 of the Basic Law). The **legal areas** subject to concurrent legislation include civil, criminal and road traffic law, as well as the law of association, the law relating to the residence and establishment of foreign nationals, the law relating to economic matters, employment law and certain aspects of consumer protection. With regard to certain matters listed in Article 74 of the Basic Law as falling within the scope of concurrent legislation, the Federation has the right to adopt legislation only if and to the extent that the establishment of equivalent living conditions throughout the federal territory or the maintenance of legal or economic unity renders federal regulation necessary in the national interest.

The Basic Law also governs the issue of any conflict between federal and Land law. The fundamental rule is laid down in Article 31 of the Basic Law:

'Federal law shall take precedence over Land law'. This principle applies irrespective of the hierarchical status of the conflicting legal rules of law so that, for example, a federal statute will prevail over the constitution of a Land.

Hierarchy of norms

The Basic Law heads the hierarchy of domestic norms. It is superior to all other sources of domestic law and, as the Constitution, is the instrument on which the entire German legal system depends. Every legal provision adopted in Germany must be compatible with the Basic Law both in form and in substance. To this end, Article 20(3) of the Basic Law specifies that the legislature is bound by the constitutional order, and the executive and judiciary by law and justice. Furthermore, the legislature, executive and judiciary are particularly bound by the basic rights laid down in Articles 1 to 19 of the Basic Law, which are directly applicable law (Article 1(3)). **The precedence of the Basic Law** is ultimately enforced by the Federal Constitutional Court. Only the Federal Constitutional Court can declare an act of Parliament invalid in the event of any such act being unconstitutional.

Article 79(2) stipulates that the Basic Law can only be **amended** by a two-thirds majority of the members of the Bundestag and two thirds of the votes of the Bundesrat (the upper house of the German Parliament), which is the organ through which the Länder participate in the enactment of legislation within, and administration of, the Federation, and in matters concerning the European Union. Certain key components of the Basic Law – i.e. the division of the Federation into Länder, their participation, in principle, in the legislative process and the principles laid down in Articles 1 and 20 – may not be amended at all (Article 79(3)).

The **general rules of international law** rank below the Constitution but above the laws of the Federation and the Länder. These general rules include customary international law and the general principles of international law, but not international contract law. The Basic Law explicitly states that these general rules are an integral part of federal law, that they take precedence over such laws and that they directly create rights and duties for the inhabitants of the federal territory (Article 25). These general rules of international law with legal effect for individuals (i.e. rules designed for the protection of the individual) include, in particular, the guarantee of an appropriate form of legal protection for foreigners or the 'speciality rule', whereby criminal proceedings are subject to the terms of the extradition authorisation of the extraditing foreign state.

Ordinary legislation ranks below the Constitution. Laws are passed by the Bundestag in conjunction with the Bundesrat. Draft laws may be introduced in the Bundestag by the Federal Government, by the Bundesrat, or from the floor of the **Bundestag** (by a parliamentary group or at least 5% of its members). The Basic Law specifies the cases in which final approval of a law by the Bundestag requires the consent of the **Bundesrat** (currently – according to statistical material published by the [Bundesrat](#) on its website – about 45% of all laws). As for the remaining laws passed by the Bundestag, the Bundesrat may only object to a draft law adopted by the Bundestag, which objection may in turn be rejected by the Bundestag. Where there are differences of opinion between the Bundestag and the Bundesrat, a common committee for joint consideration of draft laws (the Mediation Committee) composed of an equal number of members of the Bundestag and the Bundesrat (currently 16 members each) may be convened. The role of the Mediation Committee is to produce proposals for achieving unanimity, though it cannot itself make decisions on behalf of the Bundestag and the Bundesrat.

Statutory instruments are subordinate to legislation and may be issued by the Federal Government, a federal minister or the Land governments. **Bylaws** rank beneath statutory instruments and may be issued by a corporate body organised under public law (e.g. a municipality).

Institutional framework

The legislative authority

German laws are made by the country's two houses of parliament. The Bundestag is therefore the most important legislative organ. It decides on all laws that fall within the sphere of competence of the German Federation in a legislative process that also requires the participation of the Bundesrat.

The Bundesrat, the Federal Government and the members and parliamentary groups of the Bundestag are entitled to introduce new or revised pieces of legislation in the Bundestag as **draft laws**. These draft laws are debated, deliberated on and voted on in Parliament in accordance with a precisely regulated procedure.

Under Germany's federal system, the Länder hold a considerable share of the powers of the state, and therefore the **Bundesrat** also participates in the adoption of legislation. **All acts are submitted to the Bundesrat for it to vote on** and – depending on the nature of the proposed legislation – it may even cause the rejection of some proposals.

For further details please refer to the website of the [Bundestag](#).

The legislative procedure

Passage of legislation

Most draft laws and items for discussion are drawn up by the Federal Government. As the central level of the executive, it has most experience of the implementation of legislation and possesses direct knowledge of where new statutory provisions are needed in practice.

However, not only the Federal Government but also the Bundesrat and members of the German Bundestag are entitled to **initiate the draft laws** that result in new legal acts.

Initiatives introduced by the Federal Government or the Bundesrat

If the Federal Government wishes to amend or introduce a law, the Federal Chancellor must initially refer the draft to the **Bundesrat**.

As a rule, the Bundesrat then has a period of 6 weeks in which to deliver its comments on the draft law, to which the government may in turn respond with a written counterstatement. The Federal Chancellor then forwards the draft to the Bundestag with the Bundesrat's comments. One exception to this procedure is the draft **Budget Act**, which is transmitted simultaneously to the Bundesrat and the Bundestag.

A similar procedure applies when legislative initiatives are introduced by the Bundesrat. Once the majority of the members of the Bundesrat have voted in favour of a draft law, it goes first to the Federal Government, which attaches its comments to it, usually within 6 weeks, and it is then forwarded to the Bundestag.

Initiatives introduced from the floor of the Bundestag

Draft laws may also be initiated by members of the Bundestag, in which case they must be supported either **by at least one of the parliamentary groups or by at least 5% of the members of the Bundestag**.

Draft laws introduced in this way do not have to be submitted first to the Bundesrat. For this reason, the government sometimes arranges for particularly **urgent draft laws** to be introduced by its parliamentary groups in the Bundestag.

Distribution of items for discussion

Before a draft law can be deliberated on in the Bundestag, it must first be referred to the President of the Bundestag and then registered by the Administration.

It is then distributed to all members of the Bundestag and Bundesrat, and to the federal ministries, as a printed document or, more usually, in electronic form.

As soon as the draft law has been placed on the **agenda of the plenary**, the first stage of its passage through Parliament is over: it may then be **officially presented** in the public forum of the Bundestag.

Three readings in the plenary

As a rule, draft laws are debated three times in the plenary of the Bundestag. These debates are known as readings.

During the first reading, a debate is only held if this has been agreed in the Council of Elders (a special executive body of the Bundestag) or requested by one of the parliamentary groups. For the most part, this happens when legislative projects are particularly controversial or of special interest to the public.

The primary goal of the first reading is **to designate one or several committees** to consider the draft law and prepare it for its second reading. This is done on the basis of recommendations made by the Council of Elders.

If several committees are designated, one committee is given overall responsibility for the deliberations on the item, and is therefore responsible for the passage of the draft law through Parliament. The other committees are asked for their opinions on the draft law.

Legislative work in the committees

The **detailed work on legislation** takes place in the permanent committees, which comprise members from all the parliamentary groups. The committee members familiarise themselves with the material and deliberate on it at their meetings. They may also invite experts and representatives of stakeholder groups to public hearings.

In parallel to the work done by the committees, the parliamentary groups form **working groups**, in which they examine the issues concerned and define their own positions.

It is not unusual for bridges to be built between the parliamentary groups in the committees. Most draft laws are revised to a greater or lesser extent as a result of collaboration between the governing and opposition parliamentary groups.

Following conclusion of the deliberations, the committee with overall responsibility for a draft law **presents the plenary with a report** on the course and results of its deliberations. The decision it recommends forms the basis for the second reading that now takes place in the plenary.

Debate during the second reading

Before the second reading, all members receive the published **recommendation for a decision** in printed form. They are therefore well prepared for the debate. The parliamentary groups also coordinate their positions once again in internal meetings prior to this debate, in order to present a united front in the public second reading.

Following the general debate, all the provisions set out in the draft law may be considered individually. As a rule, however, the plenary moves directly to a vote on the draft law as a whole.

Any member of the Bundestag may table **motions for amendments**, which are then dealt with immediately in the plenary. If the plenary adopts amendments, the new version of the draft law must first be printed and distributed. However, this procedure may be shortened with the consent of two thirds of the members present. It is then possible for the third reading to begin immediately.

Voting during the third reading

Another debate is held during the third reading only if this is requested by a parliamentary group or at least 5% of the members of the Bundestag.

Motions for amendments may no longer be tabled by individual members at this stage, but only by one of the parliamentary groups or by 5% of the members of the Bundestag. Furthermore, motions may only be tabled on amendments adopted during the second reading.

The final vote is held at the end of the third reading. When the President of the Bundestag asks for votes in favour, votes against and abstentions, the members respond by rising from their seats.

Once a draft law has gained the necessary majority in the plenary of the Bundestag, it is transmitted to the Bundesrat as an act.

Consent of the Bundesrat

Through the Bundesrat the Länder are involved in the shaping of every piece of legislation. In this respect, the Bundesrat's rights to participate in the legislative process are precisely defined.

The Bundesrat may not make amendments to an act adopted by the Bundestag. However, if it does not give its consent to an act, it may demand that the **Mediation Committee** be convened. The Mediation Committee consists of an equal number of members of the Bundestag and Bundesrat.

For some draft laws, the consent of the Bundesrat is a compulsory requirement. These include, for example, acts which affect the finances and administrative competencies of the Länder.

Where draft laws to which the Bundesrat may lodge an objection are concerned, the Bundestag may put an act into force even if no agreement has been reached in the Mediation Committee. However, this requires another vote in which the Bundestag passes the draft law by an absolute majority.

Entry into force

Once a draft law has been approved by the Bundestag and the Bundesrat, it has to go through a number of further stages before it can enter into force.

An act that has been adopted is first printed and transmitted to the **Federal Chancellor** and the competent **federal minister**, who **countersigns** it.

The Federal President then receives the act for signing into law. He or she examines whether the act has been adopted **in accordance with the Constitution** and is free of evident material contraventions of the Basic Law. Once these checks have been carried out, the Federal President signs the act and orders that it be published in the Federal Law Gazette (**Bundesgesetzblatt**).

At this point, the act is promulgated. Should no specific date be mentioned in the act for its entry into force, this occurs on the 14th day after the date of publication of the Federal Law Gazette in which it was printed.

For further details please refer to the website of the [Bundestag](#).

Legal databases

The Federal Ministry of Justice and Consumer Protection and the Federal Office of Justice provide almost all of the current Federal law, free of charge, on the internet for citizens interested in viewing that information, on the site [Gesetze im Internet](#). Legislation and statutory instruments can be accessed in their current versions. They are consolidated on a continuous basis by the documentation centre at the Federal Office of Justice. Many key pieces of legislation are also available on the site in [English](#).

Additionally, the Federal government, under the leadership of the Federal Ministry of the Interior, Building and Community, provides a comprehensive database containing current administrative regulations issued by the highest Federal authorities, free of charge on the internet on the website

[Verwaltungsvorschriften im Internet](#).

Since the Federal Republic of Germany is a federal state, each individual Land regulates the publication of its own federal state law. For this purpose the Länder have set up their own internet services, to which links are provided on the [Justizportal des Bundes und der Länder](#) (Portal of the justice authorities of the federal and state governments).

Related links

[Bundesgesetzblatt \(Federal Law Gazette\)](#)

[Gesetze im Internet](#)

[English translations of legislation on Gesetze im Internet](#)

[Verwaltungsvorschriften im Internet](#)

[Portal of the justice authorities of the federal and state governments](#)

[Bundestag](#)

[German Federal Government](#)

Last update: 16/07/2020

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.