



GERMANY:

The Original Mixed Member Proportional System

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After the use of the absolute-majority Two Round System (TRS) in the German Empire, and the use of a pure proportional representation system in the Weimar Republic, a new electoral system was established by the Parliamentary Council in 1949. The system was created by the Basic Law of the Federal Republic of Germany (i.e. the West German Constitution). It was thus a result of inter-party bargaining between democratic forces in West Germany. Like the Basic Law, it was originally considered to be provisional, but has remained essentially unchanged since 1949.

The German electoral system is classified as a personalised proportional system (*Personalisierte Verhältniswahl*) or, as it is known in New Zealand and this handbook, as a Mixed Member Proportional (MMP) system. Its essence is the way in which it combines a personal vote in single-member districts with the principle of proportional representation.

Currently, the German parliament (*Bundestag*) has 656 seats, not including possible surplus seats (see below). Each voter has two votes. The first vote (*Erststimme*) is a personal vote, given to a particular (party) candidate in one of the 328 single-member constituencies. The second vote (*Zweitstimme*) is a party vote, given to a party list at the federal state level (*Landesliste*). Candidates are allowed to compete in single-member districts as well as simultaneously for the party list. The candidates who achieve a plurality in the single-member districts are elected (*Direktmandate*). However, the second vote determines how many representatives will be sent from each party to the Bundestag.

On the national level, all the second (*Zweitstimme*) votes for the parties are totalled. Only parties obtaining more than 5% of the votes at the national level or, alternatively, having three members elected directly in the single-member constituencies, are considered in the national allocation of list PR seats. The number of representatives from each party that has passed the legal threshold is calculated according to the Hare formula (see glossary – Annex B). Seats are then allocated within the 16 federal states (*Länder*).

The number of seats won directly by a party in the single-member districts of a particular federal state are then subtracted from the total number of seats allocated to that party's list. The remaining seats are assigned to the closed party list. Should a party win more *Direktmandate* seats in a particular federal state than the number of seats allocated to it by the second votes, these surplus seats (*Überhangmandate*) are

kept by that party. In such a case, the total number of seats in the Bundestag temporarily increases.

The German system is not, as sometimes supposed, a mixed system, but a PR system. It differs from pure proportional representation only in that the 5% threshold at national level excludes very small parties from parliamentary representation, and thanks to proportional representation a relatively wide range of social and political forces are represented in Parliament. Furthermore, the electoral system is to some extent open to social and political changes. In spite of the threshold, new political parties supported by a substantial part of the electorate have access to Parliament. Besides the Christian Democratic Union/Christian Social Union (CDU/CSU), Social Democratic Party (SPD) and Free Democratic Party (FDP), which have been in the *Bundestag* since 1949, a new Green Party (GRÜNE) gained seats in 1983 and 1987. After falling below the threshold in 1990, the Greens, in a coalition with Alliance '90, were able to return to Parliament in 1994. After German unification, even small East German parties gained parliamentary seats. In the all-German elections of 1990, the East German Alliance '90/Greens and the Party of Democratic Socialism (PDS) cleared the 5% threshold which was applied, separately in the territory of former East Germany and former West Germany, for that one election. Four years later, the PDS took advantage of the "alternative clause" by winning four of the required three *Direktmandate* seats.

The personal vote for a candidate in single-member constituencies aims to ensure a close relationship between voters and their representatives. In practice, however, the advantage of these districts should not be overestimated. In Germany, elections in the single-member districts are mainly based on party preferences and not on the personality of the candidates. The initial hopes that MMP would guarantee a close voter-representative relationship have consequently only partly materialized, despite efforts by representatives to establish strong links with their constituencies. Nevertheless, this constituency element within a PR system does at least help to bridge the gap between voters and representatives which is normally widened by ordinary closed-list PR systems.

Furthermore, the two-vote system enables voters to split their votes strategically between existing or possible coalition partners. In fact, vote-splitting is common among the supporters of smaller parties. Since candidates of smaller parties have little chance of winning a single-member district, their supporters frequently give their first vote to a constituency candidate from the larger coalition party. Similarly, supporters of bigger parties may "lend" their second vote to a minor party within the coalition, in order to ensure that it will pass the legal threshold. Thus, vote-splitting is strategically used by voters to support the coalition partner of "their" party or, at least, to indicate their coalition preferences.

By producing highly proportional outcomes, the electoral system makes manufactured majorities, where one party wins an absolute majority of the parliamentary seats on a minority of the popular votes, very unlikely. In fact, over the last five decades in Germany, manufactured majorities have never occurred. Majority governments have usually been coalition governments, and any change of government has resulted from changes in the configuration of the coalition. German coalition governments are usually stable and regarded as legitimate by the electorate, and, because of a coalition's built-in incentives to co-operate, many Germans prefer a coalition government to a single-party government. The main checking function is fulfilled by an opposition which is fairly represented. It is important to note that the relationship between government and opposition in German politics is more consensual and co-operative than conflictual or hostile. This, however, is a result of history and political culture rather than of the electoral system *per se*.

To date, the MMP system has not shown any great drawbacks in Germany. It has lasted long enough to have a high level of institutionalized legitimacy; the basic principles of single-member districts and list PR representation have been left unaltered since 1949. However, some minor changes of the electoral system have taken place. Chief among these was the switch to two separate votes in 1953, before then the voter had only a single vote to apply to both district and national PR allocation.

Nevertheless, several attempts to reform the electoral system substantially have been made since 1949, and most intensely in the 1960s, when opponents of the PR system demanded the introduction of a FPTP system. This was partly due to political manoeuvrings to enhance the position of the stronger parties, and partly based on a theoretical school of thought which favoured the British model; but all attempts were unsuccessful. More recently, the electoral system has been criticized for producing too many surplus seats without compensating the disadvantaged parties in Parliament.

