

Partial rerun of the Bundestag elections

Kamil Frymark

On 10 November, the Bundestag passed a resolution ordering a partial rerun of the 26 September, 2021 parliamentary elections. It was limited to 431 (of about 2,100) polling stations in Berlin, where significant irregularities occurred during last year's election. Around 500,000 people will be eligible to vote. The SPD, Greens and FDP coalition groupings voted in favour of the rerun, while the CDU/CSU and AfD factions voted against, announcing a complaint to the Federal Constitutional Court (BVerfG), while the Left Party (Die Linke) abstained. The vote on the resolution was based on a request from the Bundestag's election control committee, which investigates complaints about election irregularities. A total of 2,172 of them were received regarding the election, of which around 1,700 concerned the capital. The date of a possible election has not been announced. It is possible that, if a complaint is filed with the BVerfG, they will be held no earlier than 2024. The next scheduled election to the Bundestag is in 2025.

The main objections to the organisation of the election in Berlin include the lack of a sufficient number of ballots, their transfer between polling stations, the duplication of ballots at polling stations and their subsequent release to voters. In addition, the extension of the work of the polling stations after the initial results had already been announced was challenged. The irregularities arose in part from officials failing to prepare for the accumulation of elections – to the Bundestag, state and some local governments – which increased the turnout percentage. This was compounded by organisational and communication difficulties related to the annual Berlin Marathon, which fell on the election date in 2021. The chairwoman of the state election commission responsible for organising the election in the capital resigned shortly after the election. Elections for the local state parliament are likely to be repeated in their entirety.

Commentary

- The possible repetition of the vote will not lead to significant changes in the composition of the Bundestag and will not affect the stability of the ruling coalition. This is due to its limited scope - it affects only about 0.8% of all eligible voters in Germany, and turnout is likely to be lower than before. There is speculation that seats may be lost by individual deputies, primarily from the CDU. However, the direct seats of both Left Party and Green Party MPs will be retained (the sum of votes in the constituencies where the re-election will not be held exceed those of the precincts where it will be held). Keeping the number of coalition members in the Bundestag as unchanged as possible was the priority of the SPD, Greens and FDP in adopting the option of a limited rerun, although there was no unanimity on the issue within the coalition itself. The biggest proponent of the narrowest

possible version was the FDP, whose poll ratings have steadily declined since the election. The SPD would most likely benefit from voting in as many districts as possible – in the previous election, the grouping fell just 802 votes short of winning a further, 207th seat in the Bundestag (for more on the electoral procedure in Germany see [Za duży Bundestag: spór o reformę prawa wyborczego](#)).

- The Bundestag's decision is controversial in Germany. The opposition considers the holding of elections in only some districts to be insufficient and politically motivated. The chairman of the Federal Election Commission (which oversees the proper conduct of the process) Georg Thiel has also come out in favour of expanding the number of commissions in which they should be repeated. Additional doubts are raised by the fact that the Berlin state parliamentary election, which is taking place at the same time, will most likely be repeated in its entirety. This is due to the preliminary legal assessment presented by the Constitutional Court of Berlin in September this year. The SPD-Greens-FDP coalition motivates its ruling primarily on proportionality grounds and its intention to repeat the election only in those precincts where there have been "significant" violations of the law.
- Criticism of the government coalition's decision is leading to calls for reform of the process for handling complaints about the election procedure. Both the Christian Democrats and SPD representatives advocate changes to the Basic Law and transferring these powers to the BVerfG. At present, control of federal elections is vested in the Bundestag, so in practice, the newly elected parliament will rule on the validity of its elections and on any violations of the law in the course of organising or conducting the elections. The same applies to the election of German members of the European Parliament. The decision for a plenary vote is prepared by the parliamentary election control committee. Since 1949, it has received 5,475 electoral objections to federal elections, of which 2,121 concerned those from 2021. Never before in history has there been even a partial rerun of a Bundestag election. In contrast, the only case of a repeated vote at the state level took place in 1994 in Hamburg, when the 1991 state elections were repeated.