

Update from Berlin: a navigation through German Governments crisis



The German government (a coalition of Social Democrats (SPD), Bündnis 90 / Die Grünen and Free Democrats (FDP)) terminated their cooperation on 7th November 2024. After multiple disputes, mainly around economic policies, Chancellor Olaf Scholz had Minister of Finance Christian Lindner (FDP) dismissed from his ministerial office. Three FDP ministers consequentially asked for their early resignation, except Dr Volker Wissing, who remained in office as Federal Minister of Transport and Digital Affairs but left the FDP and is now in office as a non-partisan minister.

The government crisis has brought parliamentary work to a de facto standstill. Because the collapse of the three-party constellation means that the Federal Government is no longer supported by a majority in the German Bundestag. Consequently, Chancellor Scholz has announced a vote of confidence (*Vertrauensfrage*) scheduled for 16th December 2024. It is likely that the Bundestag will not express confidence in him, leading to its dissolution by Federal President Frank-Walter Steinmeier (*Bundespräsident*). This scenario anticipates new elections on 23rd February 2025, seven months earlier than planned. Until then, the ministries once led by FDP ministers will be continued by interim ministers and Olaf Scholz will lead a so-called minority government (*Minderheitsregierung*) consisting of the SPD and Bündnis 90 / Die Grünen.

Due to the lack of a majority in the German Bundestag, the adoption of draft bills is more than challenging. Until the vote of confidence there are two sessions of the German Bundestag left and the government-supporting fractions or the Federal Government need to look for individual supporters or a majority for each decision. The opposition parties, particularly the CDU/CSU and FDP, have indicated they will only engage constructively on urgent bills until after the vote of confidence. However, the current discussions suggest that constructive work will no longer take place until the vote of confidence. In particular, the CDU/CSU parliamentary group does not support most of the pending draft bills contentwise. Furthermore there is an internal pencils-down agreement within the FDP parliamentary group.

At this point in time, it can be assumed that most of the (draft-)bills currently under discussion will no longer be passed in this legislative period and will not go into effect before a new parliament is in place. This is compounded by the fact that the so-called principle of discontinuity (*Diskontinuitätsprinzip*) applies in German parliamentary law. This means that any bills that have not been discussed in the German Bundestag in a final reading by the end of a legislative period will be treated as if the German Bundestag had never dealt with them. Consequently all (draft) bills that a new federal government wants to pursue must be reintroduced in the newly convened German Bundestag in 2025.

It is very likely that a new Federal Government will not be formed until late spring / early summer 2025. Equally, it is highly likely that the composition of the next German Bundestag will be even more diverse in terms of party politics than it is today. This will probably also lead to a challenging government formation process. The German Bundestag is not expected to start constructive work until the government and the committees have been formed.

As already mentioned, the pending draft bills will not come into effect and therefore will not affect doing business in Germany. The political parties will immediately begin preparing their election manifestos and campaigning for the elections in February 2025.

We are happy to represent your business interests proactively and with legal expertise vis-à-vis the political parties, monitor specific regulatory projects and keep you up to date on current political developments.

Please do not hesitate to contact us for a deeper political analysis.



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