

# How the far right AfD determines Germany's political agenda

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20 July 2025

For the past week the German newspaper and media world has been dominated by controversies on the failure of the German parliament to elect three federal Constitutional Court judges on July 11.

The media articles speculate whether the failed election “damaged” the governing coalition and “undermined the authority and functionality of a constitutional body that is also our highest court” (President Frank-Walter Steinmeier); whether “the promise of strong leadership” by the new Chancellor Friedrich Merz is crumbling (*Der Spiegel*); whether the “professionalism of the federal government and governing factions” has suffered a “downright botched loss” (*Kursbuch*); or whether “too much transparency” in the election of judges “can also lead to a loss of trust” (*Der Spiegel* again).

All of these comments, however, completely ignore the crucial lesson from the failed judicial election: It demonstrates the extent to which the far-right Alternative for Germany (AfD) is already sitting at the government’s cabinet table. It makes clear that Merz’s breach of taboo on January 29, when the CDU/CSU and AfD jointly passed an anti-immigration motion in the Bundestag, was neither a slip-up nor a misunderstanding.

The far-right and, in part, fascist AfD is being systematically used to drive official politics to the right. The migration policy of Interior Minister Alexander Dobrindt (CSU) bears all the hallmarks of the AfD; the AfD was the first party to call for an increase in military spending to 5 percent of GDP, which has become the official policy of NATO and the German government; and now the AfD is also setting the tone in the selection of judges to the country’s highest court.

The planned election of three new constitutional judges was removed from the Bundestag’s agenda at short notice last Friday because, following a smear campaign by far-right media and the AfD, several dozen CDU/CSU MPs were no longer willing to vote for the SPD’s proposed candidate, Frauke Brosius-Gersdorf, even though the CDU/CSU leadership had already approved the proposal.

The campaign was initiated by, among others, Julian Reichelt, former editor-in-chief of the *Bild* newspaper, who now publishes the far-right media outlet *Nius*. After the *Frankfurter Allgemeine Zeitung* reported on June 30 that the governing coalition had agreed on three candidates—Frauke

Brosius-Gersdorf and Ann-Katrin Kaufhold, nominated by the SPD, and Günter Spinner, supported by the CDU/CSU—Reichelt demanded that Brosius-Gersdorf “must be stopped!”

According to research by *Der Spiegel*, Reichelt relied on the AfD-friendly platform *Apollo News*, which accused the constitutional law professor of supporting abortions and mandatory vaccination. In the following 10 days, *Nius* published more than 20 hate articles about Brosius-Gersdorf.

The storm soon reached hurricane force. AfD leader Alice Weidel reposted Reichelt. AfD MP Beatrix von Storch claimed on X that Brosius-Gersdorf was a “left-wing radical activist who essentially advocates abortion up to the ninth month.” The far-right weekly *Junge Freiheit* also supported the campaign. Eventually, *Bild*, *Neue Zürcher Zeitung* and *Welt* all joined in.

In the CDU, the ultra-right Brandenburg MP Saskia Ludwig declared Brosius-Gersdorf “unelectable” because she allegedly supports mandatory vaccination. Several CDU members of the Bundestag anonymously signalled their opposition to the candidate in the *Frankfurter Allgemeine Zeitung*.

Tens of thousands of posts against the candidate appeared on X. According to the advisory network *polisphere*, which analyzed 40,000 posts, the initial focus was primarily on Brosius-Gersdorf’s stance on a ban on the AfD, which she supports under certain conditions, and then on her views on abortion.

Members of the Bundestag were inundated with emails. The anti-abortion platform *1000plus* alone, which provided a corresponding reading tool, sent out 38,000 automated emails against Brosius-Gersdorf’s election.

The Catholic Church also got involved. Bamberg Archbishop Herwig Gössl described the nomination of a judge who “denies the right to life of unborn people” as a “domestic political scandal” and “a low point of intolerance and contempt for humanity.” He later backtracked, claiming he had been misinformed.

The candidate herself received suspicious mail and threats, including those directed at her family and staff, whom she advised to stop working in their professorial offices.

The allegations against Brosius-Gersdorf were largely fabricated. She is an established professor of public law with a

long academic career and currently teaches at the University of Potsdam. Her views, according to *Der Spiegel*, are “in the legal mainstream.”

She holds partly liberal positions, especially on issues of family law and equal rights, and partly reactionary ones—for example, when she rejects a basic pension on the grounds that it eliminates the difference for low wages and advocates raising the retirement age above 67.

Her stance on abortion would not change current practice. Under current law, abortions are illegal but exempt from punishment during the first three months if the pregnant woman undergoes counselling beforehand. To resolve this contradiction, Brosius-Gersdorf wants to legalize abortions in the first three months.

Her controversial statement: “Human dignity and the protection of life are legally decoupled” refers to this context. If “human dignity,” which is inviolable according to the German Constitution, were granted to an embryonic cell, abortion would be illegal from the day of fertilization. Brosius-Gersdorf, on the other hand, supports “protection of life” from the third month onwards.

Nevertheless, her opponents accused her of wanting to make late abortions up to the ninth month exempt from punishment and of “chopping up babies in the womb.” AfD MP Beatrix von Storch accused her in the Bundestag of believing that “a human being’s dignity doesn’t apply until they’re born.”

Brosius-Gersdorf addressed these slanders in a written statement and with an appearance on the Markus Lanz’s TV program. However, this, too, was used to accuse her of violating her duty of neutrality as a future judge. Although the defamatory nature of the allegations and their right-wing extremist origins are now widely known, calls for the law professor to withdraw her candidacy are mounting.

Federal Interior Minister Alexander Dobrindt (CSU) suggested last Friday she withdraw. “Ms. Brosius-Gersdorf is certainly thinking about how to handle this situation,” he told the *Augsburger Allgemeine* newspaper. “As a candidate for a position on the Constitutional Court, one hardly has the intention of further promoting polarization in society.” Elevating such a person to office would be the wrong response.

Chancellor Friedrich Merz is keeping all options open. At a federal press conference, he described the criticism of Brosius-Gersdorf as unacceptable, irrelevant, and in some cases insulting and derogatory. However, he declined to commit to voting for her after the summer recess and also raised the possibility of another candidate.

The SPD is still committed to Brosius-Gersdorf. But anyone familiar with the party knows that this could change in the coming weeks in the interest of “coalition consensus.”

So far, the established parties have always endeavored to elect the 16 judges of the Federal Constitutional Court by consensus so as not to jeopardize its authority and supposed neutrality. The court wields enormous power. It can declare

majority decisions of the Bundestag unconstitutional and thus create its own law; it is the sole authority able to ban political parties; it regulates disputes between the federal and state governments; and is the highest court in all legal matters.

The judges are elected by a two-thirds majority, half by the Bundestag and half by the Bundesrat, and remain in office for a maximum of twelve years or until they reach the age of 68. The election is prepared by a twelve-member electoral committee, which includes representatives from all parliamentary groups and meets in private. If the nomination is submitted to the Bundestag, the necessary majorities are generally guaranteed.

In addition to experienced judges and legal scholars, prominent politicians, such as former Saarland Minister-President Peter Müller (CDU), have also been elected as constitutional judges. However, the Federal Constitutional Court has not yet experienced political polarization, as in the US, where the Supreme Court is now dominated by a Trump-friendly, fascist majority.

The controversy surrounding Brosius-Gersdorf shows that this period is over. The massive rearmament and war policy that lies at the heart of the Merz government’s policies, and the associated attacks on social benefits, pensions, wages, and jobs, require rearmament and a shift to the right of the entire state apparatus—the judiciary, the police, the intelligence services, and the government.

The AfD is being used to effect this shift to the right. Currently, it remains outside the government because its entry would trigger massive protests. But that could change if the coalition crisis deepens.

On January 29, Merz signaled his willingness to cooperate with the AfD when the CDU/CSU voted jointly with the AfD for the anti-immigration motion. The SPD, which fully supports the government’s domestic and foreign rearmament program, offers no opposition. It fears any movement from below far more than the AfD. It is responding to its own decline and the rise of the far-right by calling for an AfD ban, which would only strengthen the most repressive forces in the state apparatus and serve as a pretext for the suppression of any left-wing opposition to capitalist rule.

The only way to stop the rise of the AfD and the rightward shift in the state apparatus is to build an international socialist movement among the working class and youth that combines the struggle against war, militarism, social cuts, and dictatorship with the struggle against capitalism and for a socialist society.



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