



Future of Democracy | 04.2021

Modern governance How the traffic light coalition could modernize joint governance – three suggestions

Governing with flexible majorities expands the scope for political action. Despite this, the traffic light coalition continues to rely exclusively on rigid majorities, loyalty oaths and rigid coalition discipline. There are other ways of making modern governance work in a multi-party system.

The traffic light coalition is sticking with tradition. In Chapter IX of the coalition agreement, it has settled on rigid coalition discipline with a pledge of allegiance: “In the German Bundestag and in all of the committees it appoints, the coalition factions vote as a unit. (translated from German)” The traffic light coalition is therefore following the norm of rigid coalition discipline that has been established in Germany for decades. This rules out flexible majorities. The possibilities for shaping policy shrink to the agreed common denominator, limited to the scope which the coalition parties grant each other. In Germany, this rigid form of coalition discipline is considered the epitome and guarantor of stability and reliability. However, in a polarized multiparty system, many problems are built into this approach, affecting and narrowing the scope of policymaking. For the political program needed for a decade of modernization, it could prove inadequate. In terms of the form of cooperation envisaged so far, the traffic light coalition is therefore not yet a coalition for progress. And there would be alternatives. Looking beyond our own backyard, other countries demonstrate

the possibilities and opportunities of modern approaches to governance, with more flexible majorities and more agile forms of cooperation between parties.

These could also be harnessed for the new Bundestag and the new federal government. Flexible majorities would offer enormous additional potential when it comes to shaping policy. So that modern governance with more flexible majorities can be introduced in a low-threshold manner and become a more familiar approach, we therefore propose three concrete additions to the coalition agreement: first, the introduction of agree-to-disagree clauses “in speech” and “in vote”, for example on the question of speed limits. In addition to this, we propose establishing orientation debates with voting behavior made public, and negotiating legislative agreements with the opposition. The latter could be used to reform debt reduction, which could not be implemented within the straitjacket of the traffic light coalition. In this way, the traffic light coalition could also modernize joint governance. Voters would strongly approve.

A progressive coalition stuck in an old-fashioned straitjacket

In Germany, the absolute norm is that a majority coalition is formed after an election. Two or more parties join forces to control an absolute majority of seats in parliament. In such majority coalitions, the partners also commit themselves to absolute coalition discipline: the coalition must act unanimously on every issue. Coalition discipline also makes it impossible to create shifting majorities in which a party could join with an opposition faction without its coalition partner, or outvote a coalition partner in the cabinet. It should be noted that this coalition discipline is not laid down in constitutional law, but is agreed voluntarily by the parties. Coalition agreements at the federal and state level contain corresponding rules of loyalty; breaking them means the end of a coalition. To put it bluntly, the partners voluntarily force themselves into a coalition straitjacket. The same norm of rigid coalition discipline that has been established for decades also applies to the traffic light coalition: the coalition agreement is designed as a comprehensive package of compromises, in which each individual section must be acceptable to all coalition partners. The coalition partners do not allow themselves to distance themselves from each other in any way or seek flexible majorities, even within limits. In this sense, when it comes to its approach to cooperation, the traffic light coalition is not a coalition for progress.

The time-honored tradition of the majority coalition is seen as the epitome of a stable and democratic government in Germany. It is thought of as promoting reliable governance and enabling voters to apportion political responsibility. However, majority coalitions have several inherent problems, and these become particularly apparent in a fragmented party system.

One political disadvantage is that multi-party coalitions erode the profiles of the partners involved. Particularly in coalitions bringing together very different parties across deep ideological divides, requiring agreement means that parties have difficulty communicating some of the inevitable coalition compromises to their core constituencies. Thus, the Greens will probably be troubled for a long time by their failure to push through the highly symbolic general speed limit against the FDP. It is already a foregone conclusion that the Left party will go through with its customary

opposition ritual, using a motion to force the Greens in the Bundestag to vote publicly against their own core position of a speed limit. This causes parties to lose approval and trust, especially among their own core electorate.

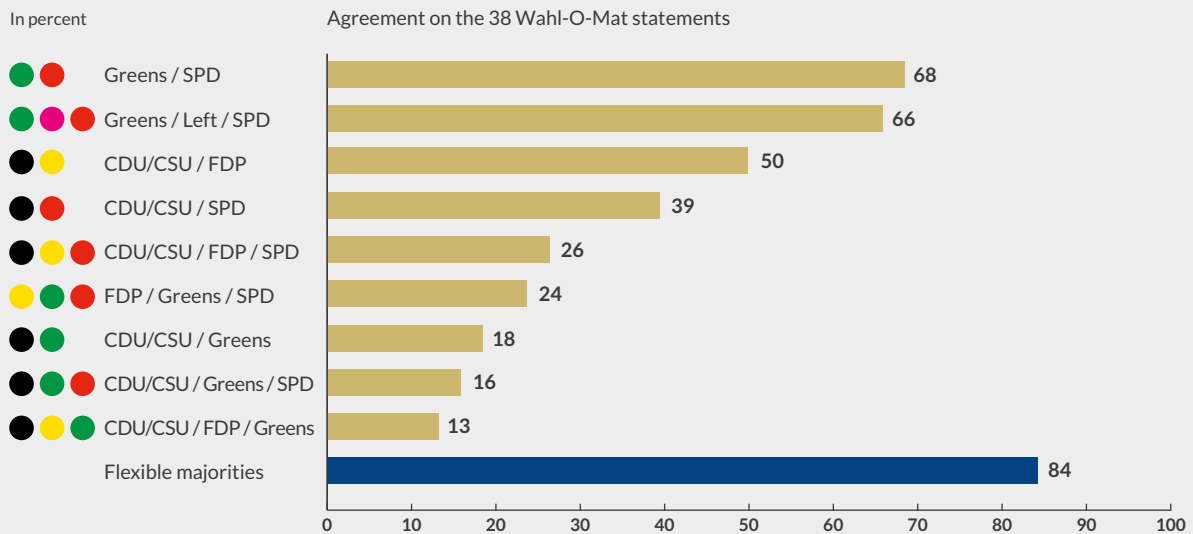
Another disadvantage in terms of democratic theory is that majority coalitions – contrary to what their name promises – provide a façade for minority rule. Since each coalition party has a de facto veto, it can prevent changes that are supported by a parliamentary majority. At the same time, it is possible to push through projects which would lack a majority in a Bundestag freed from coalition discipline. The toll on cars pursued by the CSU or the childcare allowance are minority projects that were forced through against a parliamentary majority using the lever of coalition discipline.

“Given its approach to cooperation, the traffic light coalition is not yet a coalition for progress.”

Finally, another disadvantage of majority coalitions is that requiring agreement reduces the ability of politicians to act. The traffic light coalition wants to continue this tradition, submitting to the constraints involved in requiring agreement, and ruling out majorities which could be formed with opposition parties against individual coalition parties. In the coalition straitjacket, there is only room for maneuver insofar as the ruling parties can reach an agreement. However, the traffic light coalition is only one of several possible majorities.

In the current Bundestag, the CDU/CSU, the Greens and the FDP (“Jamaica”) or the SPD and CDU/CSU (“Grand Coalition”) would also have a majority. All of these constellations are capable of reaching agreement on various issues and are thus capable of taking action: for example, SPD and CDU/CSU are in favor of increasing defense spending, whereas the Greens could block this in a traffic light coalition. Obviously, political room for maneuver grows when it is possible for different majorities capable of reaching an agreement to act, depending on the issue at hand. However, the German approach to coalitions shuts down the possibility of such flexible majorities.

FIGURE 1 Intersections between different ruling constellations



Note: This figure shows how often the different possible coalition parties would agree with each other, as a percentage of the 38 different Wahl-O-Mat statements. (Wahl-O-Mat is an online tool used to assess which party a person should vote for according to their views.) The higher the percentage, the higher the proportion of measures which could be realized by a hypothetical governing coalition.

Source: Own calculations on the basis of Wahl-O-Mat

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Potential for flexible majorities after the federal election

Flexible majorities would offer enormous additional potential to shape policy. We illustrate the possibilities of flexible majorities after the 2021 general election using the party positions in the Wahl-O-Mat, an online tool which allows people to find out which party they should vote for based on their views. Created by the Federal Agency for Civic Education, it asks parties to respond to 38 statements. Based on the agreement between different parties on these statements, we can first assess how well different alliances can cooperate with each other. The Wahl-O-Mat thus effectively becomes a Coalition-O-Mat. Nevertheless, it only offers an approximation, since it doesn't take account of the differing importance of particular issues, or the other strategic considerations parties have when forming coalitions.

Figure 1 shows the intersections of different constellations. First, it shows that the highest level of agreement is between parties that would not achieve an absolute majority in the new Bundestag. A red-green alliance (SPD and the Greens), even with the participation of the Left, would agree on almost two thirds of the statements, while a black-yellow alliance (CDU/CSU and FDP) would agree on half. Continuing the current coalition of CDU/CSU and SPD would achieve just under

40 percent agreement. In contrast, the traffic light coalition is relatively poor in common ground, at 24 percent. The lowest level of agreement would be found in a Jamaica coalition (13 percent). What is striking is that flexible majorities have the longest bar on the chart, longer than any of the mathematically possible alliances. On over 80 percent of the statements, parties – freed from the coalition straitjacket – could come together to form a majority. A possible flexible majority exists if parties in the Bundestag agree on a statement and together control an absolute majority of seats.

The potential for flexible majorities in the new legislative period arises above all from the fact that a Grand Coalition, a Jamaica coalition and a traffic light coalition would all simultaneously be possible. In the next four years, the Bundestag will therefore have three politically and mathematically possible majorities, which would considerably increase the scope for political action if they were utilized. If the traffic light parties limit themselves to the old government model of a rigid majority coalition, they are giving away these opportunities to shape policy. Instead, the traffic light coalition could modernize governance and test out instruments of innovative coalition politics. In particular, they could apply relaxation clauses to break the rigid coalition straitjacket in a controlled manner. Such relaxations are possible to various degrees, and by no means imply minority governance.

Loosening the coalition straitjacket I: Introducing agree-to-disagree clauses

Agree-to-disagree clauses are an effective instrument of modern coalition. Partners define certain policy areas in which compromises are not achievable, perhaps because there are deep-rooted differences, and the partners place great importance on their own positions. On such issues, they can first of all allow themselves to diverge in public speech (“in speech”), in a low-threshold relaxation of coalition discipline. For example, the Greens could be allowed to continue arguing clearly in favor of the speed limit in Bundestag debates, instead of defending the coalition compromise through gritted teeth. The profiles of the individual coalition parties would then remain more visible, even if the coalition voted together in the end. There would no longer be a need for embarrassing rhetorical gymnastics to maintain coalition discipline against one’s own convictions.

Loosening the coalition straitjacket II: Holding orientation debates and making votes public

Another fairly low-threshold variant of flexible majorities would be to decide beforehand in the coalition agreement that votes will be made public on a specific topic following an orientation debate in the Bundestag. This has already worked well in the past, for example, in the decision process on end-of-life care in 2014/15. At that time, the German Bundestag made its final decision without coalition and party discipline, and after several orientation debates in plenary in November 2015 based on various cross-party motions. When votes are made public, members of parliament can then decide according to their own knowledge and conscience, beyond factional and coalition discipline, very explicitly exercising their free mandate. Ideally, opposition parliamentary groups would participate in this approach.

“Agree-to-disagree clauses can be a helpful tool for politically polarized coalitions.”

“Orientation debates with votes being made public are often historic moments of parliamentary deliberation.”

However, it is equally conceivable that an agree-to-disagree clause could relax coalition discipline not only “in speech” but also “in vote”, for example, also allowing dissenting voting behavior by a coalition partner. Thus, the Greens could agree with a possible motion in the Bundestag to introduce a general speed limit. Finally, a further increase in flexibility would consist in coalition parties also accepting policy changes against themselves in individual areas, thus promoting the right of a democratic parliamentary majority to shape policy.

Agree-to-disagree clauses can act as a modern remedy for coalitions plagued by contradictions due to a fragmented party system. Irreconcilable disagreement then no longer represents a possible breaking point for a coalition and is instead declared a normal part of democracy and brought to a constructive political conclusion. The ÖVP/Green coalition in Austria has made use of this in the area of integration and migration policy. In New Zealand, too, these clauses are part of everyday political practice.

To prepare and accompany the voting, the German Bundestag holds so-called orientation debates on the topic of the decision, free of thematic coalition and party guidelines and beyond the usual debate discipline of the parties involved. These can become historic moments of parliamentary deliberation and decision-making. Ethically sensitive issues are particularly suitable for this procedure, crossing the boundaries of party competition and requiring members of parliament to follow their personal convictions, values and attitudes. For the traffic light parties, the new regulations being planned for reproductive medicine could be such an issue. Party platforms and underlying ideological convictions then recede into the background.

A more diverse range of opinions emerges beyond party lines. This can improve people’s sense of representation and increase their trust in politics and parliament. The end result is a majority decision that transcends coalition and party boundaries and can surpass the quality and acceptance of rigid coalition discipline.

Loosening the coalition straitjacket III: government contracts with the opposition

So far, the traffic light parties have only negotiated a coalition agreement between themselves. As a further innovation, they could additionally seek one or more legislative agreements with the opposition. This would be particularly suited to issues for which political implementation would in any case require opposition parties. The much-discussed reform of the debt brake would be a possible application in the current Bundestag. Substantial reform of the debt brake requires an amendment to the Basic Law (i.e., the constitution) and thus a two-thirds majority in the Bundestag (and Bundesrat), which the traffic light coalition does not have. After the FDP rejected the plan already in exploratory talks, the SPD and the Greens dropped it, despite having campaigned strongly for it before the election. At the same time, there were also voices from the CDU/CSU, at least before the election, asking for an investment-

“Legislative contracts with the opposition are tools for modern governance in multiparty systems.”

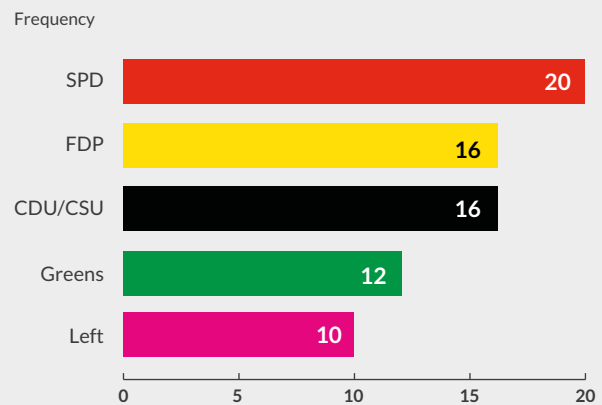
oriented reform of the debt brake. After the election, the usual mechanisms of rigid majority coalitions took effect, with their dualism of government and opposition. The FDP prevented the project within the coalition, and at the same time the CDU/CSU fell back into the opposition ritual and reflexively withdrew their original willingness to talk about the debt brake. This means that the project has been abandoned for the present. An alternative would now be to supplement the coalition agreement by offering the CDU/CSU the possibility of negotiating a legislative agreement on reforming the debt brake. The major project of future government financing could then still be passed in a consensus between the government and the opposition, with a two-thirds majority to amend the constitution. The CDU/CSU would gain a higher profile and more room for maneuver as an opposition party, the new government would have a more reliable basis for financing its future government activities, and legislative agreements between government and opposition would be established as an innovative instrument for modern governance in times of broad multi-party coalitions. So why not?

Flexible majorities as an alternative to the coalition straitjacket

We have proposed that the traffic light coalition tries out some innovative tools for seeking majorities – on an exploratory and limited basis. However, we would also like to offer a brief outline of the political possibilities that emerge if these instructions are consistently thought through and applied.

Flexible majorities need not only be envisaged as rare supplements to coalition majorities. Rather than forming a rigid majority from a fixed set of partners, parties can also form majorities that are flexible on principle. This means that on each topic, parties

FIGURE 2 Which party occupies the center?



Note: this figure shows how often a party could be part of a flexible majority. The more frequently this is the case, the more often this party can join a parliamentary majority on individual issues and play a decisive role in shaping parliamentary decisions.

Source: Own calculations based on Wahl-O-Mat

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join together which have a majority in parliament. A governing majority is thus replaced by various possible legislative majorities. Coalitional majority rule becomes parliamentary majority rule.

Flexible majorities overcome various disadvantages that we previously attributed to rigid majority coalitions. First, the scope for political action is no longer artificially narrowed. The search for a majority is no longer limited to a predefined governing coalition, but can include the entire parliament. It naturally follows that room for maneuver grows when compromises can be explored not with a few but with many and various partners. Flexible majorities can also offer advantages for individual parties.

A coalition party must embrace every coalition compromise, which can damage its brand essence, especially in ideologically overstretched alliances. Under flexible majorities, a party can abstain from certain compromises by allowing itself to be outvoted by a majority. It may be on the losing side, but it can present its own convictions without watering them down, making them clearly visible to voters as a political alternative. This option is particularly attractive for parties on political issues that affect their own political identity and where any compromise is painful (e.g., NATO membership for the Left or tax increases for the FDP).

Voters, politicians and journalists in Germany associate flexible majorities with political instability. It is assumed that flexible majorities are formed virtually ad hoc overnight and would only work with minority governments. These assumptions are not correct. Flexible majorities can be formed to different extents and be embedded in different arrangements. Looking beyond our own backyard, at New Zealand, Sweden and Denmark, we can see numerous practical examples of this. However, flexible majorities are also conceivable in connection with minority governance. Here, too, there are different degrees of flexibility. Thus, a minority government can look for solid support partners and function as a hidden majority government, so to speak. The so-called Magdeburg model, in which the PDS tolerated an SPD-led minority government (initially with the Greens) from 1994 to 2002, is a template for this approach.

Ideally, a minority government could look for different partners for each issue, to achieve a parliamentary majority. To a limited extent, this model was followed by the minority government of SPD and Greens in North Rhine-Westphalia from 2010 to 2012. It is true that the Left was the most important support partner of the SPD and the Greens. Some legislative projects, however, were also passed with the CDU and/or the FDP. Flexibility was increased by the fact that the FDP is often closer to the SPD and the Greens than to the CDU/CSU on sociopolitical issues.

It is even conceivable that individual majorities could be formed against the minority government. For example, the Danish minority government in the 1980s accepted more than 100 voting defeats in areas which it considered less important to its own

agenda. But even in this maximally flexible variant, flexible majorities can be institutionalized in a predictable and stable manner. The different majorities involved can be contractually agreed in the long term for the duration of a legislative period. A single coalition agreement is then replaced by several legislative coalition agreements. New Zealand and Sweden illustrate this. In so-called “confidence & supply agreements”, the government agrees on joint projects with various support partners for the duration of a legislative period. This implies that the support partners uphold the basic arrangement and do not sabotage it for short-term reasons. Questions of trust about the continued existence of the government and the budget are thus not part of a short-term opportunistic game. More open and flexible cooperation is also incorporated into the complicated machinery of the executive.

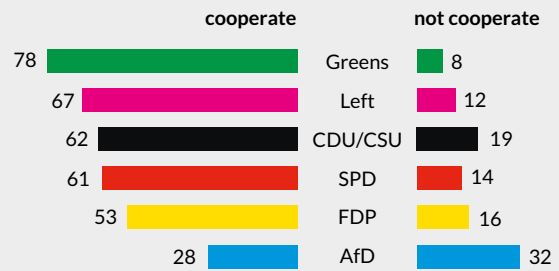
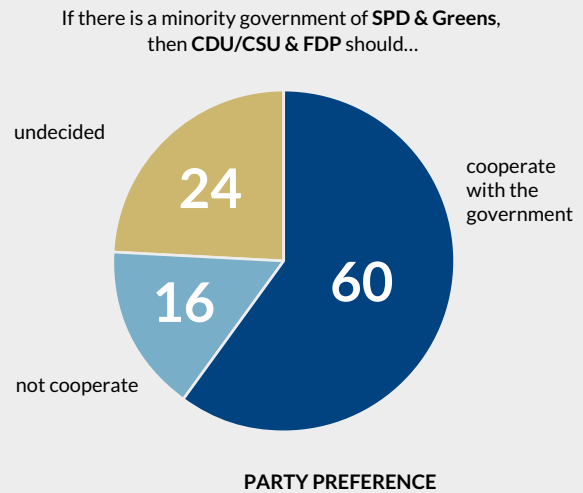
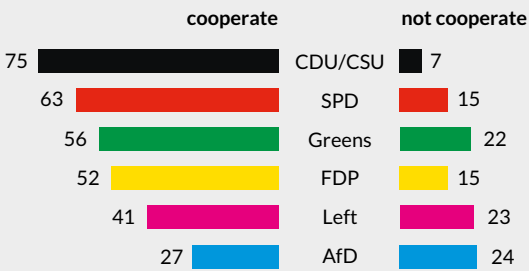
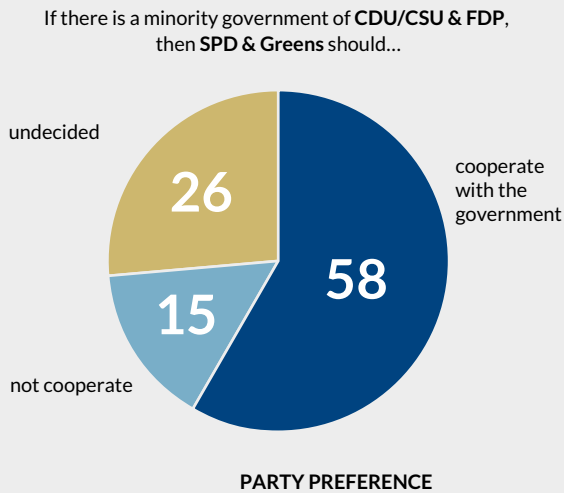
Parties in the political center benefit

If changing majorities are integrated into the political game, centrist parties in particular will benefit from this, as they can form majorities with parties to their right and left. It is not without reason that Scandinavian minority governments are often led by a centrist party, which is not necessarily one of the largest parties. This greater influence of a small party is not undemocratic, because it results solely from the party's centrist positioning and not from a minority veto.

The strategic implications of flexible majorities in Germany can also be illustrated using Wahl-O-Mat data. Figure 2 shows how often a party is part of a possible parliamentary majority, which we counted under “flexible majorities” in the figure above. This demonstrates the strategic advantage of the SPD. It would have the most issue-specific intersections with the Greens and FDP or with the CDU/CSU. On more than half (20) of all 38 Wahl-O-Mat statements, the SPD could be part of a parliamentary majority, followed by the CDU/CSU and FDP (16 each), the Greens (12) and the Left (10). By a majority, we mean an absolute majority of all members of parliament. This means that we are still quite cautious about measuring the chances of flexible majorities, because in practice simple majorities (more votes in favor than against) are sufficient for legislation.

FIGURE 3 If there were a minority government of CDU/CSU and FDP or SPD and Greens, how do you think the SPD and Greens or the CDU/CSU and FDP should behave?

In percent



Basic population: German-speakers living in Germany, aged 16 and over.

Source: Allensbach Institute survey on behalf of the Bertelsmann Stiftung, September 2021.

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Consensus democracy in Germany: Majority in favor of broad cooperation across party lines

A very high proportion of Germans approve of the tools suggested here for modern governance in a fragmented multi-party system. Most would like to see constructive cooperation between the parties across political camps. German post-war democracy is not a polarized majority democracy, but above all a consensus democracy.

This is also reflected in the figures from the Bertelsmann Stiftung's Democracy Monitor in Figure 3: asked whether a minority government of parties from one camp should be supported by the parties of the other camp, around six out of ten of all people in Germany are in favor of cooperation. Around a quarter of people are undecided

on this issue. Only 15 percent are against such cooperation. Most Germans therefore want constructive support and cooperation from the parties of the other political camp, even in the event of a minority government. SPD supporters are particularly pro-consensus, with almost two thirds (63 percent) in favor of supporting a minority government of the CDU/CSU and FDP. CDU/CSU supporters similarly prioritize governance over party politics, with 62 percent advocating cooperation with a red-green minority government. The majority of Green (56 percent) and FDP (53 percent) supporters are also in favor of such cooperation.

This shows that most people in Germany would support governance with flexible majorities across political camps. Many people are already ahead of the still very rigid coalition practices of the parties.

Conclusion: Modern governance with more flexible majorities instead of loyalty oaths in the coalition straitjacket

The transformation of the German party system requires new methods and instruments of governance. Otherwise, the scope for shaping policy shrinks to a minimum and the quality and representativeness of the political system is eroded. To achieve this, Germany needs a change in political culture and a learning process among political actors, parties and government practices. Governing with more flexible majorities takes time to learn. It is helpful to think outside the box and look at other countries. Flexible majorities do not mean renouncing stability and holding on to the traditional model of rigid majorities and strict coalition discipline is no longer sufficient under the new conditions. The necessary cultural change, however, requires time and experience. Approaches used for decades must be rethought and gradually adapted. To this end, we have made three proposals as an introduction to this learning process and cultural change.

All three proposals are designed to be low-threshold. They would not revolutionize the prevailing system, but reform it in certain ways. The controversial issue of the general speed limit would offer an opportunity to test out agree-to-disagree clauses in the new coalition agreement.

“Governing with more flexible majorities does not mean renouncing stability, but the necessary cultural change takes time and experience.”

Ethically sensitive issues could in future be dealt with and decided in orientation debates as standard, with votes being made public. And the reform of the debt brake, which has failed so far, could be the first application of a legislative agreement between the traffic light coalition and the opposition. In this way, the traffic light coalition could also modernize joint governance – and become a truly progressive coalition in this respect as well.

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