

The Democratic Tradition

Four German Constitutions

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Subsequent Reich laws shall determine if other crimes against the Reich are also to be made part of the criminal review proceedings of the Reich Court;

- (m) suits against the Reich Treasury;
- (n) suits against individual German states where the obligation to fulfil the law is in doubt or in dispute between several states; [the same applies to the suit] against several states alleging a common obligation.

Art. 127

The Reich Court alone shall decide on the question of whether a case is subject to a decision by the Court.

Art. 128

A special law shall be promulgated to regulate the institution and organisation of the Reich Court, its procedures and the implementation of its decisions and rulings.

To this law shall also be reserved the regulation of whether and in which cases a verdict of the Reich Court shall be based on jurors.

The same applies to [the question of] whether and how far this law is to be regarded as an organic part of the Constitution.

Art. 129

It is reserved to Reich legislation to institute admiralty and maritime courts as well as to establish regulations concerning jurisdiction over Reich envoys and consuls.

PART VI

The Basic Rights of the German People

Art. 130

The German people shall possess the following fundamental rights. These rights shall serve as a standard for the individual German states, and no constitution or legislation of a German state shall abolish or circumscribe them.

Section I

Art. 131

The German people consists of the citizens of the states which make up the Reich.

Art. 132

Every German has the right of German Reich's citizenship. He can exercise this right in every German state. Reich franchise legislation shall provide for the right of the individual to vote for members of the national assembly.

Art. 133

Every German has the right to live or reside in any part of the Reich's territory, to acquire and dispose of property of all kinds, to pursue his livelihood, and to win the right of communal citizenship.

The terms for living and residence shall be established by a law of settlement; trade regulations shall be established by regulations affecting trade and industry; both to be set by the Reich Authority for all of Germany.

Art. 134

No German state is permitted to make a distinction between its citizens and other Germans in civil, criminal and litigation rights which relegates the latter to the position of foreigners.

Art. 135

Capital punishment for civil offences shall not take place, and, in those cases where condemnation has already been made, shall not be carried out, in order not to infringe upon the hereby acquired civil law.

Art. 136

Freedom of emigration shall not be limited by any state; emigration levies shall not be established.

All matters of emigration remain under the protection and care of the Reich.

Section II**Art. 137**

There are no class differences before the law. The rank of nobility is abolished.

All special class privileges are abolished.

All Germans are equal before the law.

All titles, in so far as they are not bound with an office, are abolished and never again shall be introduced.

No citizen shall accept a decoration from a foreign state.

Public office shall be open to all men on the basis of ability.

All citizens are subject equally to military service; there shall be no draft substitutions.

Section III**Art. 138**

The freedom of man shall be inviolable.

The arrest of a person, with the exception of one caught in the act, shall take place only under a legally-executed warrant. This warrant must be served on the arrested person at the moment of the arrest or within the next twenty-four hours.

The police authority must, in the course of the following day, either release or present to a court any person which it has taken into custody.

Any suspect shall be released from custody against bail, the size of which is to be determined by the courts, unless he is under urgent suspicion of a serious crime.

In case of an imprisonment which has been decreed or extended illegally, those responsible and, if necessary, the state are obliged to make amends and to offer compensation.

The modifications of these regulations necessary for the army and navy shall be covered by special laws.

Art. 139

Capital punishment, with the exception of cases prescribed by martial law or maritime law concerning mutiny, is abolished, as are sentences to public whipping, branding and bodily punishment.

Art. 140

The house of every German shall be inviolable. A search is admissible only:

- (1) if there is a court order setting out the reasons which shall be handed to the person affected either at once or within the next twenty-four hours;
- (2) in case of an *in flagrante delicto* prosecution by the legally authorised civil servant;
- (3) in cases and contingencies in which the law exceptionally permits certain officers [to make a search] even without a court order.

Any search must take place, when practicable, in the presence of other inhabitants.

The inviolability of homes shall provide no hindrance to apprehending a fugitive from justice.

Art. 141

The confiscation of letters and papers, except at an arrest or house search, can take place with a legally executed warrant, which must be served on the arrested person at once or within the next twenty-four hours.

Art. 142

The privacy of posts is guaranteed.

Necessary exceptions in cases of criminal investigation and in the event of war shall be established by legislation.

Section IV**Art. 143**

Every German shall have the right freely to express his opinion through speech, writing, publication and illustration.

Under no circumstances shall the freedom of the press be suspended through preventive measures, namely, censorship, concessions, security orders, imposts, limitation of publication or bookselling, postal bans or other restraints.

Jury courts shall deal with press offences which are made the subject of an official prosecution.

The Reich shall promulgate a press law.

Section V**Art. 144**

Every German has complete freedom of religion and conscience.
No one is required to reveal his religious convictions.

Art. 145

Every German possesses the unlimited right for the private or public exercise of his religion.

Any crimes or acts which prevent the exercise of freedom of religion shall be punished by law.

Art. 146

The enjoyment of civil liberties is neither preconditioned nor limited by religious denomination.

Art. 147

All religious communities regulate and administer their own affairs, but remain subject to the general laws of the State.

No religious community shall enjoy privileges granted by the State over others; nor does a state church exist.

New religious communities may establish themselves; there is no need for their faith to be recognised by the State.

Art. 148

No one may be forced to participate in a religious act or celebration.

Art. 149

The oath formula shall henceforth be: 'So help me God'.

Art. 150

The validity of marriage in civil law is only dependent on the completion of the civil registration. A church wedding may take place only after the completion of the civil registration.

Adherence to a different religious faith is no obstacle to civil marriage.

Art. 151

The marriage registers shall be kept by the civil authorities.

Art. 152

Arts and science, and their teaching, shall be free.

Art. 153

Teaching and education remain under the authority of the state, and, with the exception of religious instruction, are removed from the authority of the clergy.

Art. 154

Every German is free to establish and to direct institutions of instruction and education and to teach in them, if he has demonstrated his ability to do so to the state authority concerned.

There is no restriction on private tuition at home.

Art. 155

The education of the German youth shall be looked after everywhere and sufficiently through state schools. Parents or their representatives may not leave their children or wards without the kind of instruction which is prescribed for primary schools.

Art. 156

Teachers at state schools enjoy the rights of civil servants.

The State employs primary school teachers from among the number of examined candidates, with the legally regulated participation of the local authorities.

Art. 157

There shall be no fees for instruction in primary schools and lower-level vocational schools. Those without means shall be given a free education at all institutions of public instruction.

Art. 158

Every person is free to choose his trade, occupation or profession, and to prepare himself for it wherever and however he wishes.

Section VII**Art. 159**

Every German possesses the right of written petition to the authorities, to the representatives of the people and to the Reichstag.

This right may be exercised by individuals as well as by associations and by several people jointly; however, disciplinary regulations must be followed as far as the army and navy are concerned.

Art. 160

It is not necessary to obtain prior permission of the authorities in order to prosecute public servants on account of their official actions.

Section VIII

Art. 161

All Germans have the right to assemble peaceably and without arms; special permission for this is not needed.

Association of people outdoors can be forbidden in the event that it endangers public order and security.

Art. 162

All Germans have the right to form associations. This right shall not be restricted by any preventive regulation.

Art. 163

The principles contained in Articles 161 and 162 extend to the army and navy inasmuch as rules of military discipline do not countermand them.

Section IX

Art. 164

Property is inviolable.

Expropriation of property may take place only if necessary for the commonweal, only on a legal basis and against fair compensation.

Intellectual property shall be protected by Reich legislation.

Art. 165

All owners of landed property may sell their property in their lifetime or upon death. It is up to the individual states to facilitate, through transitional legislation, the implementation of the principle that all landed property is divisible. It is permissible to

legislate in the interests of public welfare that the church is restricted in its rights to acquire land and to dispose over them.

Art. 166

All associations of bondage and serfdom shall be disbanded for ever.

Art. 167

The following shall be terminated without compensation:

- (1) patrimonial justice and police powers of the landlord, including the competences, exemptions and incomes stemming from these rights;
- (2) the personal receipts and services stemming from a feudal and patrimonial association.

The counter-services and burdens which those who held these rights hitherto were expected to render shall lapse together with their privileges.

Art. 168

All deliveries and services resting on land, and tithes in particular, are redeemable; legislation by individual states shall determine whether this may be done only by the person owing such deliveries and services or equally by the recipient and in what way [this may be effected].

Henceforth no piece of land shall be burdened with deliveries or services which are not redeemable.

Art. 169

Land holding includes hunting rights on one's own property.

Hunting rights on foreign land, hunting services and compulsory services as well as other services for hunting purposes are abolished without compensation.

However, hunting rights are redeemable if they can be demonstrated to have been acquired through a burdensome agreement signed with the owner of the land so affected; state legislation shall determine the details of how and in what ways redemption can be gained.

State legislation has the right to regulate the exercise of hunting rights on grounds of public security and the commonweal.

Hunting rights on foreign land must not in future be instituted as a patrimonial privilege.

Art. 170

Entailed family holdings are to be dissolved. Legislation of the individual states shall determine the character and the conditions of this dissolution.

Regulations concerning the entailed family holdings of the ruling houses are to be reserved for legislation by the states.

Art. 171

All vassal associations are to be abolished. Legislation by the individual states shall direct the details concerning the ways and means of implementing [this rule].

Art. 172

There shall be no penalty resulting in a confiscation of property.

Art. 173

Taxation shall be regulated in such a way that an end is put to all favouritism of individual classes or individual large-scale landed estates at national and local level.

Section X**Art. 174**

All jurisdiction emanates from the State. There shall be no patrimonial courts.

Art. 175

The courts shall exercise their judicial powers independently. Justice via the Cabinet or the ministry is not permissible.

Nobody may be given dispensation from facing his legal judge. Never shall there be special courts.

Art. 176

There shall be no judiciary for privileged persons or goods.

Military justice is to be restricted to the meting out of punishments for military crimes and offences as well as for violations of the code of military discipline, with [special] rules for the officer corps.

Art. 177

No judge may be removed from his office or be treated in a way

prejudicial to his rank or salary, except on the basis of a court decision based on the law.

No suspension shall occur without a judicial decision.

No judge may be transferred, against his will, to another post or be retired early, except by a judicial decision within the case law and the framework defined by the law.

Art. 178

Court proceedings shall be public and oral. A law shall determine exceptions from the publicity [requirement] in the interests of morality.

Art. 179

In criminal matters there shall be trial by public prosecution.

Jury courts shall sit in judgment over all more serious criminal matters and over all political offences.

Art. 180

Justice requiring special professional experience shall be administered or co-administered by judges who are expert and are freely elected by their peers.

Art. 181

The judiciary and the general administration shall be separate and independent of each other. Conflicts over competences between administrative and judiciary authorities in the individual states shall be decided by a court to be set up through legislation.

Art. 182

Justice under the auspices of the administration shall cease; courts are to decide in all matters of violations of the law.

The police have no powers of criminal justice.

Art. 183

Valid judgments of German courts shall apply and be ratifiable equally in all German lands. A Reich law shall determine the details.

Section XI**Art. 184**

Every community shall have as fundamental rights of its constitution:

- (a) election of its chairman and representatives;
- (b) independent control of its communal affairs including the local police under legal supervision of the state;
- (c) publication of its budget;
- (d) public consideration of its affairs as a rule.

Art. 185

All plots of land shall be part of a communal association. Restrictions relating to forests and wastelands remain the preserve of legislation by the individual states.

Section XII**Art. 186**

Every German state shall have a constitution with a popular assembly.

Ministers are responsible to the people.

Art. 187

These assemblies have the decisive voice in respect of legislation, of taxation and of the structuring of the Budget. Where a two-chamber system is in operation, they also have the right — each chamber independently — to propose legislation, to make a complaint, to petition and to initiate proceedings against ministers. The meetings of the diets are, as a rule, public.

Section XIII**Art. 188**

The non-German speaking people of Germany are guaranteed their national development, namely, equal rights for their languages, in so far as they exist in their territories, in ecclesiastical matters, in education, in administration of local affairs and of justice.

Section XIV**Art. 189**

Every German citizen abroad stands under the protection of the Reich.

PART VII
Guarantee of the Constitution

Section I**Art. 190**

If not already assembled, the Reichstag shall meet after every change of government in the same composition as the previous time. The Kaiser, when assuming office, takes an oath to the Reich Constitution in front of both Houses of the Reichstag which have been convened in a joint session.

The oath shall read: 'I swear to shield the Reich and the rights of the German People, to maintain the Reich Constitution and to implement it conscientiously, so help me God'.

Only after taking the oath is the Kaiser authorised to engage in acts of government.

Art. 191

Reich civil servants are obliged to take an oath to the Reich Constitution when they assume their office. The details are to be determined by the civil service regulations of the Reich.

Art. 192

A Reich law shall be promulgated relating to the responsibility of the Reich ministers.

Art. 193

The pledge to the Reich Constitution shall be combined with a pledge to the state constitution in the individual states and shall precede the latter.