

# Preamble

## Constitution of the Free State of Bavaria

2nd December 1946  
as last amended by the act of 10th November 2003

Mindful of the physical devastation which the survivors of the 2nd World War were led into by a godless state and social order lacking in all conscience or respect for human dignity, firmly intending moreover to secure permanently for future German generations the blessing of Peace, Humanity and Law, and looking back over a thousand years and more of history, the Bavarian people hereby bestows upon itself the following Democratic Constitution.

### **1. Chapter**

#### **The foundations of the Bavarian State**

##### **Article 1 *Free state, Land colours, Land coat of arms***

- (1) Bavaria is a free state.
- (2) The Land colours are white and blue.
- (3) The Land coat of arms shall be determined by law.

##### **Article 2 *people's state***

- (1) Bavaria is a people's state. The power of the state emanates from the people.
- (2) The people shall express their will through elections and votes. Decisions shall be arrived at by majority votes.

##### **Article 3 *Law, Culture and social state***

- (1) Bavaria is a legal, cultural and social state. It shall be dedicated to the common wellbeing.
- (2) The state shall protect the natural basis of life and cultural traditions.

##### **Article 3a *Europe***

Bavaria declares itself part of a united Europe, which is committed to democratic, constitutional, social and federal principles as well as the principle of subsidiarity, which safeguards the independence of the regions and secures their involvement in European decisions. Bavaria shall work together with other European regions.

##### **Article 4 *The exercise of state power***

The power of the state shall be exercised by those citizens entitled to vote themselves, through their elected representatives and the executive bodies and judiciary directly or indirectly authorised by them.

##### **Article 5 *Balance of power***

- (1) Legislative power is the exclusive prerogative of the people and their representatives.
- (2) Executive power shall rest in the hands of the State Government and its subordinated executive administration.
- (3) Judicial power shall be exercised by an independent judiciary.

##### **Article 6 *State citizenship***

- (1) State citizenship shall be attained
  1. by birth;
  2. by legitimation;
  3. by marriage;
  4. by naturalisation.
- (2) Citizenship cannot be revoked.
- (3) The details of citizenship shall be the subject of a law.

#### **Article 7 State Citizens and their rights**

- (1) State citizenship is held by every citizen over the age of eighteen, irrespective of birth, race, sex, religion and profession.
- (2) The state citizen shall exercise his rights through participation in elections, local petitions for referendums (Bürgerbegehren) and local referendums (Bürgerentscheiden) as well as state-wide petitions for referendums (Volksbegehren) and state-wide referendums (Volksentscheiden).
- (3) The exercise of these rights can be granted temporarily for stays of not less than one year.

#### **Article 8 Equality of citizens**

All Germans resident in Bavaria shall possess the same rights and obligations as Bavarian citizens.

#### **Article 9 Disposition of state boundaries**

- (1) The state territory shall be divided into counties (local government areas) (Kreise (Regierungsbezirke)); the division of territory shall be determined by statute.
- (2) The counties shall be subdivided into districts (Bezirke); towns adjacent to districts shall be classified as districts. The division shall be determined through legal decree of the State Government, subject to the prior agreement of the Landtag.

#### **Article 10 Associations of Municipalities**

- (1) A Municipal Association as a self-administering body is contained in each county (Kreis) and each district (Bezirk).
- (2) The particular sphere of competence of Associations of Municipalities shall be determined by the legislature.
- (3) The Associations of Municipalities may be delegated further tasks which they are to fulfil in the name of the state. They fulfil these tasks either according to the instructions of the state Administrative Body or by force of their own independent directives.
- (4) The local economic and cultural life within the sphere of the Municipal Association is to be maintained.

#### **Article 11 Municipalities**

- (1) Each part of the state territory is allocated to a Municipality. Exceptions to this are certain uninhabited areas (ausmärkische Gebiete).
- (2) The Municipalities are originally territorial authorities of public law. They have the right to order and administer their own affairs within the law and in particular to elect their own mayor and representative body.
- (3) The communities can be delegated further tasks which they are to fulfil in the name of the state.
- (4) The self-administration of the Municipalities shall be committed to the establishment of a participatory democracy in Bavaria (from the bottom up).
- (5) The self-administration of the Municipalities shall be based on the equality of political rights and obligations of all state citizens resident in the community.

#### **Article 12 Local elections, property**

- (1) The fundamental principles for Landtag elections shall apply to Municipalities and Associations of Municipalities.
- (2) The property of the Municipalities and Associations of Municipalities can under no circumstances be subsumed into property of the state. The donation of such property is impermissible.
- (3) State citizens shall have the right to regulate affairs lying within the sphere of competence of the Municipalities and rural counties through local petitions for referendums. Details shall be regulated by a statute.

### **2. Chapter The Landtag**

#### **Article 13 Representation of the people**

- (1) The Landtag consists of 180 deputies of the Bavarian people.
- (2) The deputies are representatives of the people not only a political party. They shall be subject to their consciences only and not bound by orders or instructions.

#### **Article 14 Elections**

(1) The deputies shall be elected in general, equal, direct and secret elections according to an improved proportional voting system by all state citizens entitled to vote in constituencies and wards (Wahlkreise und Stimmkreise). Every administrative district (Regierungsbezirk) shall form a constituency (Wahlkreis). Every rural county (Landkreis) and every independent Municipality (kreisfreie Gemeinde) shall form a ward (Stimmkreis). Insofar as the basic principle of electoral equality requires, territorially linked wards shall be formed outside the provisions of sentence three above. For each constituency, a maximum of one extra ward may be formed in excess of the number of deputies which are to be chosen from the constituency list. The number of deputies under Article 13 (1) can be exceeded through excess mandates and adjustment mandates which are granted in application of these principles.

(2) Any citizen who has attained the age of 18 is eligible for election.

(3) Elections shall be held on Sundays or on public holidays.

(4) Parties standing for election which fail to gain at least five per cent of the total valid votes cast in a Land election shall not be allocated seats in the Landtag.

(5) Details shall be regulated by a Land election statute.

#### **Article 15 Proscribed political groupings**

(1) Political groupings whose members or sponsors set out to suppress civic freedom or to use violence against the people, state or Constitution shall be prevented from participating in elections or votes.

(2) The decision regarding the applicability of these preconditions shall be made on the basis of a resolution of the State Government or the political parties represented in the Bavarian Constitutional Court.

#### **Article 16 Legislative terms, new elections**

(1) The Landtag shall be elected for five years. Its elective period shall commence upon its first convening and shall end with the meeting of a new Landtag. The new elections shall take place, at the earliest, 59 months and, at the latest, 62 months after the day on which the previous Landtag was elected.

(2) The Landtag shall convene by the 22th day after the election, at the latest.

#### **Article 16a Parliamentary opposition**

(1) Parliamentary opposition is a basic component of parliamentary democracy.

(2) The parliamentary groups and the members of the Landtag which do not support the State Government are entitled to have the opportunity to effect actions in parliament and in public in accordance with their position. They are entitled to the provisions necessary to fulfil their particular duties.

(3) Further details shall be provided by statute.

#### **Article 17 Convening**

(1) The Landtag shall assemble every year in autumn at the seat of the State Government.

(2) The President may convene the Landtag at an earlier date. He shall do so where the State Government or at least a third of Landtag Members so demand.

(3) The Landtag shall determine the adjournment of its sittings and the time of re-convening.

#### **Article 18 Dissolution, recalling**

(1) The Landtag can dissolve itself before the expiry of a legislative term on a majority decision of its duly elected Members.

(2) It may be dissolved by the Landtag President under Art 44 section 5.

(3) It may be dissolved on the motion of a referendum (Volksentscheid) of a million state citizens who are entitled to vote.

(4) The fresh elections shall be held at the latest on the sixth Sunday following the dissolution.

#### **Article 19 Loss of membership**

The membership of the Landtag can be forfeited during a legislative term by waiver, declaration of electoral invalidity, retrospective amendment of election results and loss of electoral eligibility.

**Article 20 Steering committee (Praesidium), procedural rules**

- (1) The Landtag shall elect from its Members a Steering Committee consisting of a President, his deputies and secretaries.
- (2) The Steering Committee shall proceed with the business of the Landtag between two sittings.
- (3) The Landtag shall determine its own procedural rules.

**Article 21 Powers of the President**

- (1) The President shall exercise the domestic authority and police powers within the Landtag buildings.
- (2) He shall be responsible for the internal administration, revenues and expenses of the house and shall represent the State in all legal affairs and legal disputes involving this administration.

**Article 22 Public meetings**

- (1) The Landtag shall convene in public. The public may be excluded from particular deliberations upon a motion proposed by 50 Members or by the State Government and passed with a two-thirds majority of Members sitting. The public must remain excluded if and for as long as the State Government requires the exclusion to justify its motion. The Landtag shall decide whether and in which way the public shall be informed of such proceedings.
- (2) Truthful reports of the proceedings of the Landtag or its committees held in public shall not give rise to any liability, unless they report on defamation of character.

**Article 23 Passing resolutions, competence**

- (1) The Landtag shall pass resolutions by a majority of votes cast subject to the requirements of the Constitution.
- (2) The Landtag requires the presence of a majority of its Members to be quorate.
- (3) The exceptions provided for in the Constitution shall be unaffected by this provision.

**Article 24 Attendance and participation of the State Government**

- (1) The Landtag and its committees can demand the attendance of the Minister President and all State Ministers.
- (2) Members of the State Government and its representatives may attend any sittings of the Landtag and its committees. They shall be heard at any time during the deliberations, including outside the agenda.

**Article 25 Committees of inquiry**

- (1) The Landtag has the right and on a motion of one fifth of its Members the obligation to set up committees of inquiry.
- (2) With the appointment of each new committee of inquiry, the chair shall rotate between the parliamentary parties in accordance with their relative strength in the Landtag.
- (3) The committees of inquiry shall sit in public, although the public may be excluded on a motion of a two-thirds majority. Art 22 sections 1, 3 and shall apply accordingly.
- (4) On a motion of one fifth of their members, the committees are to grant admissible motions under section 3. If a majority of the members of this committee consider a motion under section 3 to be inadmissible, the Landtag shall decide thereon. The Bavarian Constitutional Court can be applied to against this decision.

**Article 25a "Enquete" commissions of inquiry**

In the preparation of decisions on extensive and important matters falling within the area of responsibility of the Free State of Bavaria, the Landtag can appoint an "Enquete" commission of inquiry. It is obliged to do so on a motion of one fifth of its members. The motion must specify the mandate of the commission. Further details shall be provided by the rules of procedure of the Landtag.

**Article 26 Provisional committees**

- (1) The Landtag may order a provisional committee for the protection of the rights of the people's representatives against the State Government and for the effecting of urgent matters of state during the periods outside sittings as well as between the dissolution or recalling of the Landtag and the convening of the new Landtag. This committee shall be accorded the powers of the Landtag, but may not impeach a minister or pass laws or process petitions for a referendum.
- (2) The provisions of Art 25 shall apply to this committee.

**Article 27 Provisional committees**

No member of the Landtag may at any time be subjected to court proceedings or disciplinary action or otherwise called to account outside the Landtag for a vote cast.

#### **Article 28 Immunity**

(1) A member may not be called to account or arrested for a punishable offence except by permission of the Landtag, unless the person concerned is apprehended in the act of committing the offence or in the course of the following day.

(2) Permission of the Landtag shall also be necessary for any other restriction of a member's personal liberty which would effect the member's performance of his duties as a member.

(3) Any criminal proceedings against a Member or any detention or other restriction of a his personal liberty shall be suspended for the duration of a sitting if the Landtag so demands. Such a demand may only be made where the Member is accused of a nonpolitical offence. The Landtag shall decide on this matter.

#### **Article 29 Refusal to give evidence**

(1) Members of the Landtag have the right to refuse to give evidence concerning persons who have confided information to them in their capacity as Members or to whom they themselves have confided information in that capacity, as well as evidence concerning the information itself. In cases where this right to refuse to give evidence applies, seizure of documents shall not be permissible.

(2) A search or seizure on the premises of the Landtag may only be effected with the agreement of the President.

#### **Article 30 Entitlements of Members**

Representatives are not required to take holiday from their employer in order to perform their office as Members of the Landtag.

#### **Article 31 Free of charge transport; remuneration of expenditure**

Members of the Landtag are entitled to use all public transport in Bavaria free of charge as well as to remuneration of expenses.

#### **Article 32 Legal position of the Steering Committee and provisional committee**

(1) Articles 27 and 31 shall apply to the Steering Committee of the Landtag as well as for the members of the provisional committee and their first deputies (Stellvertreter).

(2) In cases governed by Article 28 the participation of the Landtag shall be replaced by the participation of the provisional committee.

#### **Article 33 Scrutiny of elections**

Scrutiny of elections shall be the responsibility of the Landtag. The Bavarian Constitutional Court shall rule on disputes on the validity of an election. It shall also decide whether a member's seat is forfeited.

#### **Article 33a State commissioner for data protection**

(1) The Landtag shall elect, on a proposal of the State Government, a state commissioner for data protection.

(2) The state commissioner for data protection shall supervise, in accordance with the law, compliance with the provisions on data protection in public offices.

(3) The state commissioner for data protection shall be independent in the exercise of his office and only subject to the law. He shall be under the administrative supervision of the President of the Landtag.

(4) The state commissioner for data protection shall be elected for six years. Reelection is admissible. Without his consent, he may only be removed before expiry of his term of office through a two thirds' majority of the members of the Landtag, if this is justified by an analogous application of the provisions on the removal from office of judges appointed for life.

(5) Further details shall be provided by statute.

### **3. Chapter The Senate**

Articles 34 to 42 were removed by statute of 20 February 1998. This statute was brought into force on 1 January 2000

#### **4. Chapter**

##### **The State Government**

#### **Article 43 Composition**

- (1) The State Government is the supreme leading and executive Administrative Body (Behoerde) of the state.
- (2) It shall consist of the Minister President and up to 17 State ministers and State secretaries

#### **Article 44 Election of the Minister President; resignation**

- (1) The Minister President shall be elected for a term of five years by the newly elected Landtag within one week at the latest of its convening.
- (2) Every Bavarian entitled to vote and at least forty years old is eligible.
- (3) The Minister President may resign from his office at any time. He shall be obliged to resign in political circumstances where he no longer commands the confidence of the Landtag. The resignation of the Minister President shall lead to the resignation of the State Government. The representation of Bavaria shall devolve upon the Landtag President until the election of a new Minister President. The Landtag President may not be called upon to resign by the Landtag during this period.
- (4) On the resignation or death of the Minister President during his term of office, a new Minister President shall be elected for the remainder of the current term of office at the next sitting of the Landtag.
- (5) Where the new election is not held within four weeks, the Landtag shall be dissolved by the Landtag President.

#### **Article 45 Appointment and dismissal of State Ministers and State Secretaries**

The Minister President shall appoint and dismiss State Ministers and State Secretaries with the agreement of the Landtag.

#### **Article 46 The Deputy Minister President**

The Minister President shall with the agreement of the Landtag appoint one of his ministers as his deputy.

#### **Article 47 Powers of the Minister President**

- (1) The Minister President shall preside over the State Government and direct its proceedings.
- (2) He shall determine the guidelines of policy and shall be answerable for them to the Landtag.
- (3) He shall represent Bavaria externally.
- (4) He shall exercise the right of pardon in individual cases. The execution of a death sentence shall require the confirmation of the State Government.
- (5) He shall present the bills of the State Government to the Landtag.

#### **Article 48 Suspension of basic rights**

- (1) In times of threatened endangerment of public security and order the State Government may restrict or suspend initially for one week the right of freedom of expression (Article 110), the right of freedom of the press (Article 111) the privacy of correspondence, posts and telecommunications (Article 112) and freedom of assembly (Article 113).
- (2) The State Government shall be obliged at the same time to convene the Landtag to cause it to be informed without delay of all measures taken and to reverse them either entirely or in part as demanded by the Landtag. Where the Landtag by a majority of its statutory membership confirms the measures taken, their validity shall be prolonged for one month.
- (3) Complaints regarding the measures taken to the Bavarian Constitutional Court shall also be permissible; the court shall reach a provisional decision within a week at the latest.

#### **Article 49 State ministries**

The Minister President shall determine the number and the demarcation of the portfolios (State ministries). This requires confirmation through resolution of the Landtag.

#### **Article 50 Allocation of portfolios**

Every State minister shall be allocated a portfolio or a special mandate by the Minister President. The Minister President may reserve one or several portfolios to himself or allocate several portfolios to one minister.

#### **Article 51 Policy guidelines; answerability of State Ministers and State Secretaries**

- (1) Within the guidelines determined by the Minister President, each State Minister shall administer his department independently and himself be answerable to the Landtag.

(2) The State Secretaries shall be bound by the instructions of the State Ministers to whom they have been allocated. In cases where a State Minister is prevented from acting, they shall act independently and themselves be answerable to the Landtag.

#### **Article 52 State chancellery**

A state chancellery shall support the Minister President and the State Government in the performance of their Constitutional duties. The direction of the Chancellery may be delegated to a State Secretary.

#### **Article 53 Procedural rules**

The State Government shall draw up procedural rules. These shall regulate the allocation of government business to departments (Geschäftsbereiche). Every task of the State administration shall be allocated to a department.

#### **Article 54 Resolutions of the State Government**

The State Government shall pass its resolutions on a majority of votes cast. The Minister President shall have a casting vote where votes are equal. The presence of a majority of Members is necessary for a quorum. No member may abstain from voting.

#### **Article 55 Fundamental principles of the State administration**

The following fundamental principles shall apply to the performance of government business by the State Government and the individual State Ministries.

1. State administration shall be carried out in accordance with the Constitution, the laws, and the Budget.
2. The State Government and State Ministries shall be responsible for the enforcement of statutes and resolutions of the Landtag. To this end they may issue the necessary implementing regulations (Ausführungsverordnungen) and administrative orders (Verwaltungsverordnungen). Statutory instruments (Rechtsverordnungen), which exceed the provisions of implementing regulations shall require a special statutory empowerment.
3. The State Government shall decide on all bills to be presented to the Landtag. An agreement between the state parliament and state government shall govern the informing of the state parliament by the state government.
4. The State Government shall nominate the senior civil servants of the State Ministries and the executive committees of Administrative Bodies directly subordinate to the Ministries. The remaining civil servants shall be nominated by the competent Minister or by the Administrative Body so delegated by him.
5. The entire State administration shall be subordinate to the State Government and the competent State Ministries. The State Ministries shall be responsible within the provisions of the law for the supervision of the Municipalities and Associations of Municipalities as well as the other bodies of public law and public law foundations.
6. Every State Minister shall supervise the Administrative Bodies and civil servants in his department.
7. Every State Minister shall rule on administrative complaints within the field of competence of his department.

#### **Article 56 Oath of Members of the State Government**

Before they assume office, all Members of the State Government shall swear an oath to the State constitution before the Landtag.

#### **Article 57 Ban on professions and trades**

The Minister President, State Ministers and State Secretaries may not hold any other salaried office nor practise a profession or trade; they may not belong to the supervisory board or the board of a private enterprise with the exception of companies where the prevailing influence of the State is sectoral.

#### **Article 58 Salary and remuneration**

The salary, retirement pension and provision for dependents of Members of the State Government shall be regulated by law.

#### **Article 59 Impeachment of Ministers**

The Landtag is entitled to impeach the Minister President, State Ministers and State Secretaries before the Bavarian Constitutional Court for wilful violation of the Constitution or the law.

### **5. Chapter The Constitutional Court**

#### **Article 60 Function**

The Bavarian Constitutional Court is the supreme court for questions of constitutional law.

#### **Article 61 Impeachment of Members of the State Government or Landtag**

(1) The Constitutional Court shall rule on the impeachment of a member of the State Government or Landtag.

(2) The impeachment of a member of the State Government shall be founded on his wilful violation of the Constitution or a law.

(3) The impeachment of a member of the Landtag shall be founded on the abuse for gain of his influence or his knowledge as a member of the representative body of the people in a way calculated to bring the representation of the people into gross disrepute, or on his deliberately revealing information to a third party anticipating that it would become public, despite a motion of confidentiality passed in a sitting of the Landtag or one of its committees.

(4) The bringing of an impeachment action shall proceed from the Landtag on the motion of a third of the legal membership and requires a two thirds majority of this number. Every member of the State Government or of the Landtag may propose a motion of confidence against himself.

**Article 62 Exclusion of groups of voters from voting rights**

The Constitutional Court shall rule on the exclusion of groups of voters from elections and votes (Article 5 section 2).

**Article 63 Validity of elections and loss of mandate in the Landtag**

The Constitutional Court shall rule on the validity of elections of Members of the Landtag and the loss of mandate in the Landtag. (Article 33)

**Article 64 Constitutional disputes between supreme institutions of the State**

The Constitutional Court shall rule on disputes between the supreme institutions of the State or other parts of such institutions which have been vested with particular rights within the provisions of this constitution.

**Article 65 Constitutionality of laws**

The Constitutional Court shall rule on the Constitutionality of laws (Article 92).

**Article 66 Complaints of infringement of Constitutional rights**

The Constitutional Court shall rule on complaints of infringement of Constitutional rights by an Administrative Body (Article 48 section 3, Article 120).

**Article 67 Particular cases referred under the law**

The Constitutional Court shall further rule on particular cases referred to it under the law.

**Article 68 Formation, composition**

(1) The Constitutional Court shall be formed by the supreme Land Court in Munich.

(2) The Constitutional Court shall be composed of:

a) in cases governed by Art 61, one of the Presidents of the Bavarian supreme Land Court, eight professional judges of whom three shall be from the Administrative Court, as well as ten further members to be elected by the Landtag;

b) in cases governed by Art 65, the President and eight professional judges of whom three shall be from the Administrative Court;

c) in other cases, the President and three professional judges of whom two shall be from the Administrative court and five elected by the Members of the Landtag.

(3) The President and the professional judges shall be elected by the Landtag. They may not be Members of the Landtag or the Senate.

**Article 69 Law on the Constitutional Court**

Further details of the organisation of the Constitutional Court, of its procedures and of the enforcement of its judgements shall be regulated by a statute.

**6. Chapter  
The Legislature**

**Article 70 Statutes**

(1) Generally binding enactments and prohibitions shall require statutory form.

(2) The State Budget shall also be determined by the Landtag by means of formal statute.

(3) The power to pass legislation may not be transferred by the Landtag, even to any of its committees.

**Article 71 Initiation of legislation**

Bills shall be presented by the Minister President in the name of the State Government, or by Landtag Members, by the Senate or the people (petition for a referendum/Volksbegehren).

**Article 72 Power of legislation, State treaties**

- (1) Laws shall be passed by the Landtag or by the people (referendum/Volksentscheid).
- (2) State treaties shall be passed by the Minister President with previous consent of the Landtag.

**Article 73 No referendum on the Budget**

No referendums shall be held on the State Budget.

**Article 74 Petition for a referendum (Volksbegehren) and referendum (Volksentscheid)**

- (1) A referendum shall be held where a tenth of those state citizens entitled to vote call for the creation of a law in a petition for a referendum.
- (2) The petition for a referendum shall be accompanied by a reasoned and detailed draft bill.
- (3) The petition for a referendum shall be submitted to the Landtag by the Minister President on behalf of the State Government accompanied by the State Government's comments.
- (4) Where the Landtag does not support the petition for a referendum, the Landtag may present their own additional draft bill for consideration by the people.
- (5) Legally valid petitions for a referendum shall be processed by the people's representatives within three months of their being submitted and shall be laid before the people for decision within a further three months. These time limits shall be prolonged by the dissolution of the Landtag.
- (6) Referendums on petitions for a referendum shall customarily be held in Autumn or the Spring.
- (7) Each draft bill laid before the people for decision is to be accompanied by an instruction from the State Government which should present in a comprehensive and factual way the reasons of the proposers of the bill as well as the opinion of the State Government.

**Article 75 Amendments to the Constitution**

- (1) The Constitution may only be amended by law. Proposals for Constitutional amendments which contradict the basic democratic principles of the Constitution are inadmissible.
- (2) Resolutions in the Landtag to amend the Constitution must be carried by a two thirds majority of the Members. They shall be submitted to the people for decision.
- (3) Disputes on the Constitutionality of a proposed law or amendment to the Constitution shall be ruled on by the Bavarian Constitutional Court.
- (4) Amendments to the Constitution shall be recorded in the text of the Constitution or in an Appendix.

**Article 76 Promulgation and entry into force**

- (1) Laws enacted in accordance with the provisions of the Constitution shall be signed by the Minister President and promulgated on his order within a week in the Bavarian Law Gazette.
- (2) Every law shall specify the day on which it enters into force.

**7. Chapter  
The Administration**

**Article 77 Organisation of Administrative Bodies**

- (1) The organisation of the general administration of the State, the regulation of competencies and the methods of appointment of state bodies shall be governed by law. Details of the establishment of Administrative Bodies shall be subject to the State Government and the individual State ministries it may empower.
- (2) The organisation of the Administrative Bodies and the regulation of their procedures shall be guided by the principles of avoiding unnecessary centralisation while guaranteeing necessary unity of the administration, upholding decision making power and answerability of Administrative Bodies while sufficiently guaranteeing the rights of the individual.

**Article 78 Budget**

- (1) All State revenue and expenditure for each year shall be included in the Budget.
- (2) Expenditure incurred in order to meet the costs of previously approved measures and for the fulfilment of legal obligations of the State shall be accounted for in the Budget.
- (3) The Budget shall be ratified by law before the commencement of the financial year.

(4) Where at the end of a financial year the Budget estimates for the following year have not been determined by law the State Government may in the interim continue to administer the previous year's Budget.

(5) Decisions of the Landtag which would increase the proposed expenditure in the Budget estimates shall be referred on demand for consultation to the State Government. This consultation shall not be effected without the agreement of the State Government before 14 days have elapsed.

(6) Expenditure shall as a rule be ratified for one year, or in particular cases for a longer period.

#### **Article 79 Principle of meeting expenditure from revenue**

A measure which incurs expenditure for which no provision has been made in the previous Budget may only be considered and passed by the Landtag where provision is made for the requisite expenditure.

#### **Article 80 Presentation and auditing of accounts**

(1) The State Minister of Finance shall submit to the Landtag, on behalf of the State Government, annual accounts for the previous financial year covering the utilisation of all state revenue. Auditing shall be effected through a Court of Audit whose members enjoy the same independence as judges.

(2) The Landtag shall elect, on a proposal by the State Government, the President of the Court of Audit. The term of election shall be 12 years. Reelection shall not be admitted. Without his consent, he can only be removed before expiry of his term of office if this is justified by an analogous application of the provisions for the removal from office of judges appointed for life. The implementation of a removal from office requires the approval of the Landtag with a two third's majority of its members.

(3) Further details shall be provided by statute

#### **Article 81 Preservation of basic State capital reserves**

The basic capital reserves of the State may only be reduced in accordance with law. The proceeds of disposals of any of these basic capital reserves shall be directed towards the further accumulation of such capital.

#### **Article 82 Borrowing and guarantees, sureties**

Financial resources may be acquired by borrowing only in exceptional circumstances. The borrowing of funds and credit guarantees or sureties which may incur expenditure by the State in future years shall require an empowerment by law.

#### **Article 83 Sphere of competence of Municipalities**

(1) The particular sphere of competence of Municipalities (Article 11, section 2) shall encompass the administration of Municipality capital reserves and enterprises; local traffic and road construction; the provision of water, light, gas and electricity for residents; provision for food safety; town planning; the building and supervision of housing; local police and fire services; the furtherance of local culture; elementary and vocational school as well as adult education provision; guardianship and welfare provision; local health services; marriage and maternal guidance as well as provision of care for the newly born; school hygiene and the physical development of juveniles; public baths; funeral services; the preservation of local monuments and buildings of historical interest.

(2) The Municipalities shall be obliged to draw up a Budget. They shall have the right to meet their expenditure requirements by levying public taxes.

(3) If the state transfers tasks to the municipalities, if it obliges them to fulfil tasks in its own sphere, or if it places special requirements on the fulfilment of existing or new tasks, it must also satisfy the conditions concerning the covering of the costs at the same time. If the completion of these tasks leads to an additional burdening of the municipalities, corresponding financial compensation must be provided.

(4) The Municipalities shall be subject to the supervision of State Administrative Bodies. With regard to affairs within the Municipalities' sphere of competence, the role of the State shall be limited to judicial review. In affairs of delegated competence the Municipalities shall be bound by the instructions of the relevant State Administrative Body. The State shall protect the Municipalities in the performance of their tasks.

(5) Administrative disputes between the Municipalities and the State shall be regulated by the Constitutional Court.

(6) The provisions of sections 2 to 5 shall also apply to Associations of Municipalities.

(7) The central municipal organisations should be listened to in good time before matters can be governed through legislation or statutory ordinance which affect the municipalities or municipal associations. To implement the principle of connectivity (Section 3), the state government agrees to a consultation procedure with the central municipal organisations..

### **8. Chapter The Administration of Justice**

#### **Article 84 The inclusion of international law in local law**

The generally recognised principles of international law shall be included in local law.

#### **Article 85 Independence of judges**

Judges shall be independent and subject only to the law.

**Article 86 *Ban on exceptional courts; courts for particular subject matter***

- (1) Exceptional courts shall not be permissible. Nobody shall be deprived of his legal judge.
- (2) Courts for particular subject matter are only permissible within the provisions of the law.

**Article 87 *Personal independence of judges***

- (1) Judges shall only against their will be permanently or temporarily suspended, transferred or retired by force of a judicial decision, and then only on grounds and in the form provided for by law. An age limit for judges may be determined by statute.
- (2) Judges of ordinary courts shall be appointed for life.

**Article 88 *Lay judges***

Men and women of the general public shall participate in the administration of justice. Their selection and form of appointment shall be regulated by law.

**Article 89 *Instruction of State Attorneys***

Public prosecutors before criminal courts shall be subject to the instructions of their supervisory Administrative Body.

**Article 90 *Openness of legal proceedings***

The proceedings of all courts shall be held in public. The public may be excluded by judicial decision where State security or public morals are endangered.

**Article 91 *Court hearings, defence***

- (1) In court everybody is entitled to a hearing in accordance with the law.
- (2) Every person accused of a punishable act may avail himself of a defence counsel.

**Article 92 *Unconstitutional laws***

Where a judge holds a law to be unconstitutional, he shall refer the matter to the Constitutional Court for a ruling.

**Article 93 *Administrative law jurisdiction***

Disputes of administrative law shall be decided by the Constitutional Courts.

**9. Chapter  
Civil Servants**

**Article 94 *Appointment or election***

- (1) Professional civil servants of the State, Municipalities and Associations of Municipalities shall be elected in accordance with the law or appointed by the competent Administrative Body.
- (2) All citizens entitled to vote are equally eligible for any public office according to their personal suitability, qualifications and professional ability, which shall, as far as possible, be determined by competitive examinations. The same basic principle shall underlie the professional advancement of civil servants.

**Article 95 *Rights of civil servants***

- (1) The basic principles of civil service conditions shall be regulated by the law. The fundamental career structure of the civil service shall be maintained.
- (2) Civil servants are entitled to avail themselves of judicial procedures in pursuit of their proprietary claims.
- (3) An official complaints procedure and an appeal procedure shall be available for all disciplinary judgements.
- (4) Unfavourable personal data relating to a civil servant shall only be recorded when the civil servant involved has had the opportunity to comment upon them. The comments of the civil servant shall be recorded along with the personal data.
- (5) Every civil servant has the right to inspect his personal records at any time.

#### **Article 96 Obligations of civil servants**

Civil servants shall serve the people as a whole and not only one political party. The civil servant shall acknowledge the democratic constitutional State at all times and shall be loyal to it both in the course of and outside the performance of his duties.

#### **Article 97 Neglect of duty**

Should a civil servant, in exercising a public office entrusted to him, neglect his duty towards a third party, liability shall rest with the State or the public body employing the civil servant. Remedies against the civil servant may be sought. Recourse to the ordinary courts shall not be precluded.

## **Part Two Basic Rights and Obligations**

#### **Article 98 Restrictions of basic rights**

Basic rights guaranteed by the Constitution shall not in principle be subject to any restrictions. Restrictions by law are only admissible where rendered urgently necessary in the interests of the security, morals, health and wellbeing of the public. Other restrictions shall only be permissible under the circumstances of Article 48. The Constitutional Court shall declare statutes and regulations which unconstitutionally restrict a basic right as void.

#### **Article 99 Protection of the Constitution against attack**

The Constitution shall serve the spiritual and physical wellbeing of all residents. Its protection against external attacks shall be guaranteed by international law, and from within by the laws, the administration of justice and the police.

#### **Article 100 Protection of human dignity**

Human dignity is inviolable. To respect it and protect it shall be the duty of all public authority.

#### **Article 101 Fulfilment of the personality**

Everybody has the right to selffulfilment within the limits of the law and the moral imperative not to violate the rights of others.

#### **Article 102 Gurantee of rights in detention**

(1) The freedom of the person is inviolable.

(2) Anybody who is detained by a public body shall be brought before the competent judicial authority on the day after his detention at the latest. The judge shall inform the person detained by which Administrative Body, and on what grounds his detention has been ordered, and shall afford an opportunity for the person to raise objections to his detention. The judge shall either make a custodial order or release the person from detention without delay.

#### **Article 103 Property and inheritance**

(1) Property rights and the right of inheritance shall be guaranteed.

(2) The ordering and use of property should also serve the public interest.

#### **Article 104 Basic rights before the court**

(1) An act may be punished only if it constituted a criminal offence under the law before the act was committed.

(2) Nobody may be punished for the same act more than once under the law.

#### **Article 105 Asylum**

No nonnational who is subject to persecution on political grounds and who has taken refuge in Bavaria shall be extradited or expelled.

#### **Article 106 Privacy of the home**

- (1) Every resident of Bavaria is entitled to adequate housing.
- (2) The advancement of the building of lowercost social housing shall be the task of the State and the Municipalities.
- (3) The home is a sanctuary for everybody and shall be inviolable.

#### **Article 107 Freedom of faith, conscience and creed**

- (1) Freedom of religion and conscience are guaranteed.
- (2) The undisturbed practice of religion shall be protected by the State.
- (3) The enjoyment of civil and political rights shall not be made conditional upon or subject to a religious creed, nor shall political obligations be prejudiced by it.
- (4) Eligibility for public office shall be independent of religious creed.
- (5) Nobody shall be obliged to reveal their religious persuasions. The Administrative Bodies only have the right to enquire into membership of a religious community insofar as the maintenance of legally ordered rights and obligations or a legally instituted statistical survey make this necessary.
- (6) Nobody shall be compelled to perform a religious act, or to participate in a religious rite or celebration, or to utter a religious confirmation of an oath.

#### **Article 108 Freedom of Art and Science**

The freedom to pursue the teaching of Art and Science shall be guaranteed.

#### **Article 109 Freedom of movement**

- (1) All residents of Bavaria have the right to move freely. They are entitled to settle and reside in any place, to acquire land and to follow any occupation.
- (2) All residents of Bavaria have the right to emigrate outside German territory

#### **Article 110 Freedom of expression**

- (1) Every resident of Bavaria has the right freely to express his opinions orally, in writing, in print, visually, or by other means. This right shall not be limited by employment contract and nobody who exercises it shall incur any disadvantage.
- (2) The State and Municipalities have a responsibility to combat degrading and obscene literature.

#### **Article 111 Freedom of the press**

- (1) The press has a responsibility in the service of democratic thought to report truthfully about events, circumstances, institutions and public figures.
- (2) Censorship is prohibited. Recourse shall be had to the courts against police enactments which interfere with freedom of the press.

#### **Article 111a Freedom of broadcasting**

- (1) Freedom of broadcasting shall be guaranteed. Broadcasting serves information by means of truthful, comprehensive and impartial reporting as well as by the dissemination of opinions. It contributes to education and entertainment. Broadcasting shall respect the basic free democratic order, human dignity, religious and philosophic persuasions. Glorification of violence as well as productions which grossly offend general moral feelings shall be prohibited. Freedom of opinion, objectivity, mutual respect, protection against defamation as well as a balance in the entire broadcasting output product programme shall be guaranteed.

(2) Broadcasting shall be carried out in such a way that it is publicly answerable and under the direction of legally constituted public bodies. Significant political, philosophic and social groups shall be participate to an appropriate degree in the control of broadcasting. The total proportion of representatives of State Government, Landtag or the Senate on controlling bodies shall not exceed one third. The philosophic or social groups shall select or appoint their own representatives themselves.

(3) Details shall be the subject of a statute

#### **Article 112 Privacy of correspondence, posts and telecommunications**

(1) Privacy of correspondence, posts and telecommunications shall be inviolable.

(2) Restrictions on the reception of broadcasting as well as to printed matter shall be impermissible

#### **Article 113 Freedom of assembly**

All residents of Bavaria shall be entitled to assemble peacefully and unarmed without registration of particular permission.

#### **Article 114 Freedom of association**

(1) All residents of Bavaria shall have the right to assemble freely and to form associations and corporations (Vereine und Gesellschaften).

(2) Associations and corporations whose aims contravene the law or public morality, or which apply such methods or are directed towards damaging civil freedoms of the people, the State or the Constitution may be prohibited.

(3) Every association shall be entitled to acquire legal rights according to the provisions of the Civil Code.

#### **Article 115 Right of petition**

(1) All residents of Bavaria shall have the right to address the competent Administrative Body or the Landtag in writing with their requests or complaints.

(2) The rights of the Landtag to review complaints shall be provided for by statute.

#### **Article 116 Access to public office**

All State citizens are eligible for public office according to their abilities and their achievements.

#### **Article 117 Duty of loyalty to the State**

The undisturbed enjoyment of freedom by everyone depends on the fulfilment of duty of loyalty to the people and Constitution, the State and laws. Everyone shall be obliged to respect and obey the Constitution and the laws, to participate in public affairs and to use their physical and mental powers in the interest of the common wellbeing.

#### **Article 118 Equality before the law, titles and decorations**

(1) Everyone is equal before the law. The laws are binding on all to an equal extent and everyone enjoys the protection of the laws to an equal extent.

(2) Women and men have the same rights. The State shall promote the real enforcement of equality for women and men and shall work towards the removal of existing disadvantages.

(3) All public law privileges and disadvantages of birth or standing are abolished. Aristocratic titles shall be mere parts of names; they may no longer be awarded and may no longer be acquired by adoption

(4) Titles may only be awarded when they are attached to an organisational office or an occupation. They may not be used outside the exercise of the office or the occupation. This shall not apply to academic grades.

(5) Decorations and badges of honour may be awarded by the State within the provisions of the law.

#### **Article 118a Equality for disabled**

People with disabilities may not be disadvantaged. The State shall work towards living conditions of equal worth for people with and without disabilities.

#### **Article 119 Racial and national hatred**

The incitement of racial and national hatred is prohibited and punishable.

#### **Article 120 Constitutional complaints**

Every resident of Bavaria who feels that his constitutional rights have been violated by an Administrative Body is entitled to call upon the protection of the Bavarian Constitutional Court.

#### **Article 121 Acceptance of an honorary post**

All residents of Bavaria have an obligation to accept honorary posts, in particular as a trustee, guardian, orphanage governor, lay judge or juror.

#### **Article 122 Duty to lend assistance**

Everyone shall be obliged to lend assistance to others within the provisions of the law in accidents, emergencies, natural disasters and in the course of neighbourly relations.

#### **Article 123 Taxation**

- (1) Everyone shall be required to bear the burden of public charges in proportion to his income, property and financial obligations to dependents.
- (2) The proportions of consumer taxes and property taxes shall be maintained in an appropriate relation to each other.
- (3) Inheritance tax shall be directed towards preventing the amassing of huge individual fortunes. It shall be staged according to degrees of kinship.

## **Part Three Social Life**

### **1. Chapter Marriage, family and children**

#### **Article 124 Marriage and the family**

- (1) Marriage and the family are the natural and moral basis of human society and shall enjoy the particular protection of the State.
- (2) Men and women have fundamentally the same civil rights and obligations within the marriage.

#### **Article 125 Children**

- (1) Children are the most valuable possession of a people. Every mother is entitled to the protection and care of the State. They have the right to develop to persons who are capable of self determination and who are responsible.
- (2) The maintenance of the purity of the family, its health and social advancement are common responsibilities of the State and Municipalities.
- (3) Large families shall be entitled to appropriate provision, in particular to adequate healthy housing

#### **Article 126 Right to bring up children; children born outside marriage; protection of youth**

(1) Parents have the natural right and the paramount duty to bring up their children in soundness of body, mind and spirit. Parents shall be supported in this by the State and Municipalities. In questions involving the bringing up of children, the will of the parents shall be decisive.

(2) Children born outside marriage shall enjoy the same rights of advancement as all other children.

(3) Children and minors are to be protected against exploitation by governmental and municipal measures and organisations, as well as against moral, mental and physical neglect and against abuse.

#### **Article 127 Educational influence of religious communities**

The intrinsic right of religious communities and state recognised associations which foster nonreligious beliefs to exert an appropriate influence of their creed or philosophy on the education of children shall be guaranteed without infringing the right of parents to bring up their children.

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## **2. Chapter**

### **Education and schools, protection of the natural basis of life and cultural traditions**

#### **Article 128 Right to education; support of gifted children**

(1) Every resident of Bavaria shall be entitled to educational provision in accordance with his demonstrated skills and inner vocation.

(2) Gifted children shall be enabled to attend schools and higher education institutions supported out of public finances where necessary.

#### **Article 129 Compulsory elementary and vocational school attendance**

(1) All children shall be obliged to attend elementary and vocational schools.

(2) Tuition at these schools shall be free of charge.

#### **Article 130 State school supervision**

(1) The entire school and education system shall be under the supervision of the State. The Municipalities may be invited to participate in this task.

(2) School supervision shall be carried out by fulltime, professionally trained civil servants.

#### **Article 131 Educational goals**

(1) Schools shall develop the spirit and character of their pupils, as well as imparting knowledge and skills.

(2) The paramount educational goals are reverence for God, respect for religious persuasion and the dignity of man, selfcontrol, the recognition of and readiness to undertake responsibility, helpfulness, receptiveness to everything which is beautiful, good and true, as well as a sense of responsibility for the natural world and the environment.

(3) Children shall be educated in the spirit of democracy, to love the Bavarian homeland and the German people in a spirit of reconciliation.

(4) Girls and boys shall additionally be instructed in babycare, the upbringing of children and in housekeeping.

#### **Article 132 Choice of schools**

The education system shall reflect the diversity of life occupations. The aptitudes, tendencies achievements and inner vocation of each child, rather than the economic and social standing of his parents, shall inform his enrolment at a particular school.

#### **Article 133 State schools; schools of religious and philosophic communities**

(1) The education of children shall be provided through State institutions. The State and Municipalities shall collaborate in their establishment. Recognised religious communities and associations which foster nonreligious beliefs shall also be entitled to establish schools.

(2) Teachers at State schools shall enjoy the same basic rights as those of civil servants.

#### **Article 134 Private schools**

(1) Private schools shall be obliged to meet the standards demanded of State schools. They may only be established and maintained with the approval of the State.

(2) Approval shall be given provided the schools meet the standards of equivalent State schools with regard to their educational goals (Article 131), their facilities and the academic training of their teachers, provided the economic and legal standing of their teachers is adequately secured, and provided there are no reservations against the person of the school director.

(3) Private elementary schools shall only be permitted under certain conditions. These conditions arise in particular where those entitled to bring up the children have no State school of their creed or their philosophic persuasion available.

#### **Article 135 State elementary schools**

State elementary schools shall be open to all children of school age. In them children shall be taught and educated according to the principles of the Christian creed. Details shall be the subject of the School Law.

#### **Article 136 Religious instruction**

(1) The religious sensibilities of all shall be observed in lessons in all schools.

(2) Religious teaching shall be a recognised subject in all elementary schools, vocational schools, in secondary and higher educational institutions. It shall be taught in accordance with the fundamental beliefs of the religious community involved.

(3) No teacher may be compelled to give or prevented from giving religious instruction.

(4) Teachers require the authorisation of religious communities to give religious instruction.

(5) The necessary school premises shall be made available.

#### **Article 137 Participation in religious instruction**

(1) Participation in religious instruction and in church practices and festivals shall require the consent of those entitled to bring up the child, and from the age of 18 on, the consent of the pupil.

(2) Instruction on generally recognised fundamentals of morality shall be provided for those pupils who do not participate in religious instruction.

#### **Article 138 Higher education institutions (Hochschulen)**

(1) With the exception of church higher education institutions (Article 150 section 1), the establishment and administration of higher education institutions shall be left to the State. Further exceptions shall require the approval of the State.

(2) Higher education institutions shall have the right of selfadministration. The students shall participate in this insofar as their interests are involved.

#### **Article 139 Adult education**

Adult education shall be furthered through Adult Education Centres (Volkshochschulen) and other institutions supported out of public finances.

#### **Article 140 The furtherance of art, science, cultural life and sport**

(1) Art and science shall be furthered by the State and Municipalities

(2) In particular they shall provide resources in support of creative artists, scholars or writers who can demonstrate their artistic or cultural activity. (3) Cultural life and sport shall be furthered by the State and Municipalities.

#### **Article 141 Protection of the natural basis of life and cultural tradition; the right to enjoy the countryside**

(1) Care for and protection of the natural environment held in trust for the benefit of future generations is the duty of the individual and the State community. Animals shall be respected and protected as living beings and fellow creatures. The State, Municipalities and legal bodies also have a paramount responsibility, to protect the ground, water and air as the natural basis of life, to relieve or restore damage which may occur and to ensure that they are used as economically as possible, to preserve and constantly enhance the productivity of the ecological balance, to protect the forest with regard to its particular importance for the ecological balance, and to relieve or restore damage which may occur, to care for and preserve indigenous species of animal and plant life, their natural habitats as well as characteristic natural sites and landscape.

(2) The State, Municipalities and legal bodies have a responsibility, to care for and preserve artistic treasures, historical and natural monuments as well as the landscape, to restore damaged artistic and historical treasures as far as possible to their former condition, to prevent the exportation of German artistic treasures abroad.

(3) Everyone is entitled to enjoy natural beauty and relaxation in the open countryside, particularly through access within reasonable distance from towns to forests and mountain meadows, streams and wild fruits. At the same time everyone shall be obliged to care for nature and the landscape. The State and Municipalities have the right and duty to provide open access to mountains, lakes and rivers and other areas of natural beauty, to extend access through the restriction of private ownership, and to provide pathways and nature parks.

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### **3. Chapter Religion and religious communities**

#### **Article 142 Freedom of association and self-administration**

(1) There shall be no state church.

(2) The freedom to congregate for family worship, public rituals and religious communities as well as their amalgamation within Bavaria shall be free within the limits imposed by the law valid for all.

(3) Churches and recognised religious communities as well as such associations which foster nonreligious beliefs whose aims are consistent with law valid for all shall be free from state patronage. They shall regulate and administer their own affairs independently within the limits of the law valid for all. They shall confer their offices without the participation of the state or the civil community.

#### **Article 143 Bodies of public law; church tax**

(1) Religious communities and associations which foster nonreligious beliefs shall acquire legal capacity according to the general provisions of the general law.

(2) Churches and recognised religious communities shall remain public corporations if they have enjoyed that status hitherto. Other religious communities and associations which foster nonreligious beliefs whose aims are consistent with law valid for all shall be granted the same rights after a period in existence of five years and upon application.

(3) Religious communities and associations which foster non-religious beliefs and are public corporations shall be entitled to levy taxes on the basis of the civil taxation lists.

#### **Article 144 State protection of religion and the priesthood**

(1) The priesthood shall enjoy the protection of the state in the performance of their office.

(2) Every public defamation of religion, its institutions, the priesthood or members of religious orders in their capacity as followers of a religion shall be prohibited and punishable.

(3) The priesthood may not be compelled to reveal before a court or to an Administrative Body information which has been vouchsafed to them in their capacity as providers of pastoral care.

#### **Article 145 State contributions to religious communities**

(1) Contributions to religious communities by the state or political communities based on law or contract or special legal ties shall remain in force.

(2) New voluntary contributions by the state, political Municipalities of Associations of Municipalities to a religious community shall be effected by surcharges on state taxes and contributions to the members of the religious community.

#### **Article 146 Property and the other rights**

The right to own property and other rights of religious communities, religious associations, monastic orders, congregations and associations which foster non-religious beliefs shall be guaranteed with regard to their institutions, foundations and other property for purposes of worship, education or charity.

#### **Article 147 Protection of Sundays and feastsdays**

Sundays and feastsdays recognised by the state shall remain legally protected as days of spiritual edification and rest from work.

#### **Article 148 Religious services and pastoral care hospitals, prisons, etc.**

To the extent that there exists a need for religious services and pastoral care in hospitals, prisons and other public institutions, the religious communities shall be permitted, but may in no way compelled, to perform religious acts.

#### **Article 149 Cemeteries; joint use of churches and cemeteries**

(1) The Municipalities shall ensure that every dead person is buried in a fitting manner. The religious communities shall determine their own involvement themselves.

(2) In cemeteries which are intended for particular religious communities, the burial of followers of other faiths or denominations in a way acceptable to them shall be permitted without segregation and provided no other suitable burial place is available.

(3) Otherwise the joint use by churches and cemeteries according to hitherto valid law shall continue, insofar as no changes are effected by law.

#### **Article 150 Geological colleges and faculties**

(1) The churches shall be entitled to provide education and further education for their believers in their own church colleges.

(2) The theological faculties in higher education institutions shall remain

## **Part Four Economy and Employment**

### **1. Chapter**

#### **The economic system**

#### **Article 151 Economic development**

(1) The entirety of economic activity shall serve the common wellbeing, in particular a guarantee of dignified existence for all and a gradual enhancement of living standards for all sections of the community.

(2) Within this aim, freedom to contract within the law shall be upheld. The fundamental individual freedom to develop personal enterprise and to engage in independent economic activity shall be recognised. Economic freedom of the individual shall be consistent with consideration for others and the moral demands of the common wellbeing. Socially damaging and immoral economic activity, in particular any economically exploitative contract, shall be illegal and void.

#### **Article 152 Supervision of the economic: provision of energy**

The ordered production and distribution of economic resources to meet the needs of the population shall be supervised by the state. The state shall be responsible for ensuring the provision of electricity for the Land.

#### **Article 153 Small and medium sized businesses**

The independent small and medium sized businesses in agriculture, trades, commerce, craft and industry shall be encouraged by the legislature and executive and shall be protected against excessive burdening and takeovers. They shall be protected and afforded state support in their efforts, their economic freedom and independence as well as their development of selfhelp cooperatives. The advancement of capable workers from paid employment to selfemployed status shall be encouraged.

#### **Article 154 Selfadministering bodies of the economy**

Selfadministering economic bodies which have been democratically formed from within professional or trade associations (Berufsverbände) shall participate in the formation of economic policy. Details shall be the subject of a statute.

#### **Article 155 Areas of particular need**

In the interests of an optimally balanced satisfaction of economic needs of all citizens, particular areas of need may be established by law taking into consideration the interests of independent productive enterprises; and to this end public bodies may be established on a cooperative basis. Such bodies shall have the right of self-administration within the provisions of the law.

#### **Article 156 Cartels, combinations and price agreements**

The combining of companies for the purposes of joint exertion of economic power and the formation of monopolies shall not be permitted. In particular cartels, combinations and price agreements which are intended to exploit the broad mass of the population or to destroy independent middle sized concerns shall be prohibited.

#### **Article 157 Finance and credit systems**

(1) The accumulation of capital is not an end in itself, but rather a means to the development of the national economy.

(2) Finance and credit systems shall serve the interests of wealth creation and the satisfaction of the needs of all residents.

### **2. Chapter Property**

#### **Article 158 Obligations attached to property**

Property entails obligations. The manifest abuse of property and ownership rights shall not be countenanced by the law.

#### **Article 159 Expropriation**

Expropriation shall only be permissible in legally defined circumstances and with adequate compensation which can also be in the form of a pension. In the event of dispute regarding the amount of compensation, recourse may be had to the ordinary courts.

#### **Article 160 Property in mineral resources, traffic and utilities; public ownership**

(1) A corporate body or co-operative under public direction shall generally control property in economically significant mineral and energy resources, in railways and other routes and means of public transport, in water distribution and in power utilities.

(2) Generally essential means of production, major banks and insurance concerns may be transferred to public ownership in the interest of the population as a whole. The transfer shall be effected under the law and shall be adequately compensated.

(3) Enterprises in public ownership can be managed in a private enterprise form if this is in accordance with the commercial purpose.

#### **Article 161 Distribution and use of land**

- (1) The distribution and use of land shall be supervised by the State. Misuse shall be terminated.
- (2) Increases in the value of land which arise without particular effort or capital investment on the part of the owner shall be utilised for the general public.

#### **Article 162 Copyright, patent and creative rights**

Intellectual property, copyright, patent rights and creative rights shall enjoy the protection and care of the state

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### **3. Chapter Agriculture**

#### **Article 163 Land**

- (1) The freedom of the land shall be guaranteed. The farmer shall not be bound to the soil.
- (2) Land holdings of all sizes which are under agriculture and forestry shall serve the people as a whole.
- (3) The ownership of land by farmers shall be guaranteed
- (4) Farming land shall not be alienated from its original purpose. Acquisition of agricultural and forest land shall be dependent on proof of suitability for proper cultivation; it shall not be acquired merely for investment purposes.
- (5) Expropriation of agricultural and forest land shall only be permissible for urgent needs of common well-being, in particular for settlement, with adequate compensation and along with the preservation of model farms and concerns.

#### **Article 164 Promotion of agriculture**

- (1) The agricultural population shall be guaranteed a humanly dignified income on their inherited soil by means of the appropriate application of agricultural technology, the improvement of vocational training, maintenance of agricultural cooperative systems and the promotion of production and marketing.
- (2) An adequate agricultural income shall be ensured by means of price and wage regulation informed by general economic conditions as well as market regulation. Regulation shall be based on agreements between organisations representing producers, distributors and consumers.

#### **Article 165 Prevention of excessive indebtedness**

Excessive indebtedness of agricultural concerns shall be prevented as far as possible by the legislature.

### **4. Chapter Employment**

#### **Article 166 Right to employment**

- (1) Employment is the source of a people's wellbeing and shall enjoy the particular protection of the state.
- (2) Everyone shall have the right to create an adequate living for himself through employment.
- (3) He shall have the right and the obligation to choose employment appropriate to his abilities and education in the service of the general public and according to more detailed provisions of the law.

**Article 167 Protection of labour**

- (1) As the most valuable economic resource of a people, human labour shall be protected against exploitation, occupational hazards and other threats to health.
- (2) Exploitation which results in damage to the health shall be criminally punishable as bodily injury.
- (3) The infringement of health and safety protection regulations in a concern shall be punished.

**Article 168 Remuneration; unemployment and sickness welfare provision**

- (1) Every honest form of employment has an equal moral value and a claim to appropriate remuneration. Men and women shall receive equal pay for equal work.
- (2) Unemployment benefit for persons fit for work shall be provided through additional taxes subject to the law.
- (3) Every resident of Bavaria who is unfit for work or who cannot be provided with work shall have a right to welfare provision.

**Article 169 Minimum wage; collective wage agreements**

- (1) Minimum wage levels may be established for every occupational field such as make possible for every employee and his family a minimum standard of living according to the prevailing social conditions.
- (2) Collective agreements on working conditions formed between employers and employee associations shall be binding on the members of the employee associations, and may be declared generally binding where they further the general interest.

**Article 170 Freedom of association**

- (1) Freedom of association for the protection and advancement of working and economic conditions shall be guaranteed for everyone and for all occupations.
- (2) All agreements or measures which seek to limit or prevent freedom of association shall be illegal and void.

**Article 171 Social insurance**

Everyone shall be entitled to protection against the vicissitudes of life by means of adequate social insurance within the provisions of the law.

**#Article 172 Rights and obligations of the employee and the employer**

The rights and obligations of employees and employers shall be regulated by a special law.

**Article 173 Maximum working hours**

Daily and weekly maximum working hours shall be specifically determined by a statute.

**Article 174 Holiday entitlement**

- (1) Every employee has a right to rest. This shall be basically guaranteed by means of a free weekend and an annual fullyremunerated holiday. Particular conditions for individual occupations shall be regulated by law. Public holidays shall be remunerated.
- (2) The First of May shall be a public holiday.

**Article 175 Right of codetermination**

The employees have a right of codetermination in all economic concerns with regard to affairs which affect them directly as well as a direct influence on the management and administration of economically significant concerns. To this end they shall form works councils within the provisions of a special law. This law shall also contain provisions regarding the participation of the works council in the appointment and dismissal of employees.

**Article 176 Participation of the employee in economic life**

Employees shall have an equal entitlement with other active members of the economy to participate in the formation of economic policy.

**Article 177 Industrial disputes**

(1) Industrial disputes shall be resolved by industrial tribunals which shall be composed of an equal number of employees and employers with an independent chairman.

(2) Arbitration rulings in industrial disputes may be declared generally binding according to the existing laws.

## **Conclusion und transitional provisions**

**Article 178 Accession to a federal state**

Bavaria shall accede to a future democratic federal state. This shall be based on a voluntary federation of individual German states whose separate state existence is to be guaranteed.

**Article 179 Organisation of the economy; producer and consumer organisations**

The social, economic and cultural bodies, selfadministering economic organs as well as producer, distributor and consumer organisations denoted in this Constitution (Articles 34, 36, 154, 155, 164) are not public authorities and are not entitled to exercise state powers. Compulsory membership of these organisations is prohibited.

**Article 180 Authorisation for the establishment of a federal state**

Until the establishment of a democratic German federal state, the Bavarian State Government shall, insofar as it is unavoidably imperative, be authorised with the agreement of the Bavarian Landtag to cede responsibilities in the field of foreign relations, the economy, nutrition, financial systems and traffic to the Council of Minister Presidents of the states of the US Zone of occupation or of other German communal establishments of several states or zones.

**Article 181 Conclusion of state treaties**

The right of the Bavarian state to conclude state treaties within the framework of its limitations of its responsibilities shall remain in force.

**Article 182 Continued validity of treaties previously concluded**

Previously concluded treaties, in particular the treaty with the Christian Churches of 24 January, 1924 shall remain in force.

**Article 183 Resitution**

Those who suffered damage at the hands of the national socialist regime by virtue of their religious or political convictions or their race shall be entitled to restitution within the framework of the law.

**Article 184 Denazification**

The validity of legislation enacted against national socialism and militarism, or which seeks to eliminate their consequences, shall not be affected or limited by the provisions of this Constitution.

**Article 185 Reestablishment of administrative districts**

The former counties (Kreise) (Regierungsbezirke) with their seats of government shall be reestablished as soon as practicable.

**Article 186 Continued validity of former laws**

(1) The Bavarian Constitution of 14 August, 1919 is abolished.

(2) Other laws and regulations shall remain in force insofar as they do not conflict with this Constitution.

(3) Directives of public administrative bodies which were passed in a legal way on the basis of previously passed laws shall remain in force until abolished by virtue of conflicting directives or legislation.

**Article 187 Oath to the Constitution**

All civil servants and other staff in public service shall swear an oath to this Constitution.

**Article 188 Text of the Constitution for schoolchildren**

Every schoolchild shall receive a copy of this Constitution before the end of his compulsory education.

**Entry into force**

The Bavarian Constitution specifies no date for its entry into force. According to a statement of the Council of Ministers of 4 December 1946, it entered into force upon publication in the Bavarian official law gazette on 8 December 1946.