

The Unification Treaty (August 31, 1990)

Abstract

The Unification Treaty was the result of intense negotiations between the GDR and the FRG. It provided for the reorganization of the GDR's administrative districts [*Bezirke*] into five federal states [*Bundesländer*] that would accede to the Federal Republic of Germany under the terms of Article 23 of the Basic Law. The treaty also addressed a myriad of legal and financial issues entailed in the introduction of the Federal Republic's political, economic, and social structures in the new eastern states.

Source

The Federal Republic of Germany and the German Democratic Republic,

Resolved to achieve in free self-determination the unity of Germany in peace and freedom as an equal partner in the community of nations,

Mindful of the desire of the people in both parts of Germany to live together in peace and freedom in a democratic and social federal state governed by the rule of law,

In grateful respect to those who peacefully helped freedom prevail and who have unswervingly adhered to the task of establishing German unity and are achieving it,

Aware of the continuity of German history and bearing in mind the special responsibility arising from our past for a democratic development in Germany committed to respect for human rights and to peace,

Seeking through German unity to contribute to the unification of Europe and to the building of a peaceful European order in which borders no longer divide and which ensures that all European nations can live together in a spirit of mutual trust,

Aware that the inviolability of frontiers and of the territorial integrity and sovereignty of all states in Europe within their frontiers constitutes a fundamental condition for peace,

Have agreed to conclude a Treaty on the Establishment of German Unity, containing the following provisions:

Chapter I

Effect of Accession

Article 1

Länder

(1) Upon the accession of the German Democratic Republic to the Federal Republic of Germany in accordance with Article 23 of the Basic Law taking effect on 3 October 1990 the Länder of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia shall become Länder of the Federal Republic of Germany. [...]

(2) The 23 boroughs of Berlin shall form Land Berlin.

Article 2

Capital City, Day of Germany Unity

(1) The capital of Germany shall be Berlin. The seat of the parliament and government shall be decided after the establishment of German unity.

(2) 3 October shall be a public holiday known as the Day of German Unity.

Chapter II

Basic Law

Article 3

Entry into Force of the Basic Law

Upon the accession taking effect, the Basic Law of the Federal Republic of Germany [...] shall enter into force in the Länder of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia and in that part of Land Berlin where it has not been valid to date, subject to the amendments arising from Article 4, unless otherwise provided in this Treaty.

Article 4

Amendments to the Basic Law Resulting from Accession

The Basic Law of the Federal Republic of Germany shall be amended as follows:

1. The preamble shall read as follows:

"Conscious of their responsibility before God and men,

Animated by the resolve to serve world peace as an equal partner in a united Europe, the German people have adopted, by virtue of their constituent power, this Basic Law.

The Germans in the Länder of Baden-Württemberg, Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Hesse, Lower Saxony, Mecklenburg-Western Pomerania, North-Rhine/Westphalia, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia have achieved the unity and freedom of Germany in free self-determination. This Basic Law is thus valid for the entire German people."

2. Article 23 shall be repealed.

3. Article 51 (2) shall read as follows:

"(2) Each Land shall have at least three votes; Länder with more than two million inhabitants shall have four, Länder with more than six million inhabitants five, and Länder with more than seven million inhabitants six votes."

4. The existing text of Article 135a shall become paragraph 1. The following paragraph shall be inserted after paragraph 1:

"(2) Paragraph 1 above shall be applied mutatis mutandis to liabilities of the German Democratic Republic or its legal entities as well as to liabilities of the Federation or other corporate bodies and institutions under public law which are connected with the transfer of properties of the German

Democratic Republic to the Federation, Länder and communes (Gemeinden), and to liabilities arising from measures taken by the German Democratic Republic or its legal entities."

5. The following new Article 143 shall be inserted in the Basic Law:

"Article 143

(1) Law in the territory specified in Article 3 of the Unification Treaty may deviate from provisions of this Basic Law for a period not extending beyond 31 December 1992 in so far as and as long as no complete adjustment to the order of the Basic Law can be achieved as a consequence of the different conditions. Deviations must not violate Article 19 (2) and must be compatible with the principles set out in Article 79 (3).

(2) Deviations from sections II, VIII, VIIIa, IX, X and XI are permissible for a period not extending beyond 31 December 1995.

(3) Notwithstanding paragraphs 1 and 2 above, Article 41 of the Unification Treaty and the rules for its implementation shall remain valid in so far as they provide for the irreversibility of interferences with property in the territory specified in Article 3 of the said Treaty."

6. Article 146 shall read as follows:

"Article 146

This Basic Law, which is valid for the entire German people following the achievement of the unity and freedom of Germany, shall cease to be in force on the day on which a constitution adopted by a free decision of the German people comes into force."

Article 5

Future Amendments to the Constitution

The Governments of the two Contracting Parties recommend to the legislative bodies of the united Germany that within two years they should deal with the questions regarding amendments or additions to the Basic Law as raised in connection with German unification, in particular

- with regard to the relationship between the Federation and the Länder in accordance with the Joint Resolution of the Minister Presidents of 5 July 1990,
 - with regard to the possibility of restructuring the Berlin/Brandenburg area in derogation of the provisions of Article 29 of the Basic Law by way of an agreement between the Länder concerned,
 - with considerations on introducing state objectives into the Basic Law, and
 - with the question of applying Article 146 of the Basic Law and of holding a referendum in this context.
- [...]

Article 7

Financial System

(1) The financial system of the Federal Republic of Germany shall be extended to the territory specified in Article 3 unless otherwise provided in this Treaty.

(2) Article 106 of the Basic Law shall apply to the apportionment of tax revenue among the Federation as well as the Länder and communes (associations of communes) in the territory specified in Article 3 of this Treaty [...]

(3) [...] The Land share of turnover tax throughout Germany shall be divided up into an eastern component and a western component in such a way that the average share of turnover tax per inhabitant in the Länder of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia amounts

in 1991 to 55 per cent

in 1992 to 60 per cent

in 1993 to 65 per cent

in 1994 to 70 per cent

of the average share of turnover tax per inhabitant in the Länder of Baden-Württemberg, Bavaria, Bremen, Hesse, Hamburg, Lower Saxony, North-Rhine/Westphalia, Rhineland-Palatinate, Saarland and Schleswig-Holstein. The share of Land Berlin shall be calculated in advance on the basis of the number of inhabitants. The provisions contained in this paragraph shall be reviewed for 1993 in the light of the conditions obtaining at the time. [...]

(5) Following the establishment of German unity the annual allocations from the German Unity Fund shall be distributed as follows:

1. 85 per cent as special assistance to the Länder of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia as well as to Land Berlin to cover their general financial requirements and divided up among these Länder in proportion to their number of inhabitants, excluding the inhabitants of Berlin (West), and

2. 15 per cent to meet public requirements at a central level in the territory of the aforementioned Länder.

(6) In the event of a fundamental change in conditions, the Federation and the Länder shall jointly examine the possibilities of granting further assistance in order to ensure adequate financial equalization for the Länder in the territory specified in Article 3 of this Treaty.

Chapter III

Harmonization of Law

Article 8

Extension of Federal Law

Upon the accession taking effect, federal law shall enter into force in the territory specified in Article 3 of this Treaty unless its area of application is restricted to certain Länder or parts of Länder of the Federal Republic of Germany and unless otherwise provided in this Treaty, notably Annex I.

Article 9

Continued Validity of Law of the German Democratic Republic

(1) Law of the German Democratic Republic valid at the time of the signing of this Treaty which is Land law according to the distribution of competence under the Basic Law shall remain in force in so far as it is compatible with the Basic Law, notwithstanding Article 143, with the federal law put into force in the territory specified in Article 3 of this Treaty and with the directly applicable law of the European Communities, and unless otherwise provided in this Treaty.

[...]

Article 10

Law of the European Communities

(1) Upon the accession taking effect, the Treaties on the European Communities together with their amendments and supplements as well as the international agreements, treaties and resolutions which have come into force in connection with those Treaties shall apply in the territory specified in Article 3 of this Treaty. [...]

Chapter IV

International Treaties and Agreements

[...]

Article 12

Treaties of the German Democratic Republic

(1) The Contracting Parties are agreed that, in connection with the establishment of German unity, international treaties of the German Democratic Republic shall be discussed with the contracting parties concerned with a view to regulating or confirming their continued application, adjustment or expiration, taking into account protection of confidence, the interests of the states concerned and the treaty obligations of the Federal Republic of Germany as well as the principles of a free, democratic basic order governed by the rule of law, and respecting the competence of the European Communities. [...]

Chapter V

Public Administration and the Administration of Justice

Article 13

Future Status of Institutions

(1) Administrative bodies and other institutions serving the purposes of public administration or the administration of justice in the territory specified in Article 3 of this Treaty shall pass under the authority of the government of the Land in which they are located. Institutions whose sphere of activities transcends the boundaries of a Land shall come under the joint responsibility of the Länder concerned. Where institutions consist of several branches each of which is in a position to carry out its activities independently, the branches shall come under the responsibility of the government of the respective Land in which they are located. The Land government shall be responsible for the transfer or winding-up. Section 22 of the Länder Establishment Act of 22 July 1990 shall remain unaffected.

(2) To the extent that before the accession took effect the institutions or branches mentioned in paragraph 1, first sentence, performed tasks that are incumbent upon the Federation according to the distribution of competence under the Basic Law, they shall be subject to the competent supreme federal

authorities. The latter shall be responsible for the transfer or winding-up.

(3) Institutions under paragraphs 1 and 2 above shall also include such

1. cultural, educational, scientific and sports institutions,

2. radio and television establishments as come under the responsibility of public administrative bodies.

[...]

Article 15

Transitional Arrangements for Land Administration

(1) The Land spokesmen in the Länder named in Article 1 (1) of this Treaty and the government plenipotentiaries in the districts shall continue to discharge their present responsibilities on behalf of the Federal Government and subject to its instructions, from the date when the accession takes effect until the election of minister presidents. [...]

Article 17

Rehabilitation

The Contracting Parties reaffirm their intention to create without delay a legal foundation permitting the rehabilitation of all persons who have been victims of a politically motivated punitive measure or any court decision contrary to the rule of law or constitutional principles. The rehabilitation of these victims of the iniquitous SED regime shall be accompanied by appropriate arrangements for compensation. [...]

Article 20

Legal Status of Persons in the Public Service

(1) The agreed transitional arrangements set out in Annex I shall apply to the legal status of persons in the public service at the time of accession.

(2) The exercise of public responsibilities (state authority as defined in Article 33 (4) of the Basic Law) shall be entrusted as soon as possible to professional civil servants. Public service law shall be introduced in accordance with the agreed arrangements set out in Annex I. Article 92 of the Basic Law shall remain unaffected.

(3) Military personnel law shall be introduced in accordance with the agreed arrangements set out in Annex I.

Chapter VI

Public Assets and Debts

Article 21

Administrative Assets

(1) The assets of the German Democratic Republic which are used directly for specific administrative purposes (administrative assets) shall become federal assets unless their designated purpose as of 1 October 1989 was primarily to meet administrative responsibilities which, under the Basic Law, are to be exercised by Länder, communes (associations of communes) or other agencies of public administration. Where administrative assets were primarily used for the purposes of the former Ministry of State

Security/ Office of National Security, they shall accrue to the Trust Agency unless they have already been given over to new social or public purposes since the above-mentioned date. [...]

Article 22

Financial Assets

(1) Public assets of legal entities in the territory specified in Article 3 of this Treaty, including landed property and assets in agriculture and forestry, which do not directly serve specific administrative purposes (financial assets), with the exception of social insurance assets, shall, unless they have been handed over to the Trust Agency or will be handed over by law according to Section 1 (1), second and third sentences, of the Trusteeship Act, to communes, towns and cities or rural districts, come under federal trusteeship upon the accession taking effect. Where financial assets were primarily used for the purposes of the former Ministry of State Security/ National Security Office, they shall accrue to the Trust Agency unless they have already been given over to new social or public purposes since 1 October 1989. Financial assets shall be divided by federal law between the Federation and the Länder named in Article 1 of this Treaty in such a way that the Federation and the Länder named in Article 1 each receive one half of the total value of the assets. The communes (associations of communes) shall receive an appropriate share of the Länder portion. Assets accruing to the Federation under this provision shall be used for public purposes in the territory specified in Article 3 of this Treaty. The Länder share should in principle be distributed to the respective Länder in such a way that the relationship between the total values of the assets apportioned to the respective Länder corresponds to the relationship between the population sizes of these Länder on the date the accession takes effect, excluding the inhabitants of Berlin (West). Article 21 (3) of this Treaty shall be applied mutatis mutandis. [...]

Article 23

Debt Arrangements

(1) Upon the accession taking effect, the total debts of the central budget of the German Democratic Republic which have accumulated up to this date shall be taken over by a federal Special Fund without legal capacity, which shall meet the obligations arising from debt servicing. The Special Fund shall be empowered to raise loans:

1. to pay off debts of the Special Fund,
2. to cover due interest and loan procurement costs,
3. to purchase debt titles of the Special Fund for the purposes of market cultivation.

(2) The Federal Minister of Finance shall administer the Special Fund. The Special Fund may, in his name, conduct legal transactions, sue and be sued. The general legal domicile of the Special Fund shall be at the seat of the Federal Government. The Federation shall act as guarantor for the liabilities of the Special Fund. [...]

(5) The Special Fund shall be abolished at the end of 1993.

(6) Upon the accession taking effect, the Federal Republic of Germany shall take over the sureties, guarantees and warranties assumed by the German Democratic Republic and debited to its state budget prior to unification. The Länder named in Article 1 (1) of this Treaty and Land Berlin for that part in which the Basic Law has not been in force to date shall assume jointly and severally a counter-surety to the amount of 50 per cent of the total debt transferred in the form of sureties, guarantees and warranties to the Federal Republic of Germany. The losses shall be divided among the Länder in proportion to their

number of inhabitants on the date the accession takes effect, excluding the inhabitants of Berlin (West).
[...]

Article 24

Settlements of Claims and Liabilities vis-à-vis Foreign Countries and the Federal Republic of Germany

(1) In so far as they arise from the monopoly on foreign trade and foreign currency or from the performance of other state tasks of the German Democratic Republic vis-à-vis foreign countries and the Federal Republic of Germany up to 1 July 1990, the settlement of the claims and liabilities remaining when the accession takes effect shall take place under instructions from, and under the supervision of, the Federal Minister of Finance. [...]

Article 25

Assets held in Trust

The Privatization and Reorganization of Publicly Owned Assets Act (Trusteeship Act) of 17 June 1990 (Law Gazette 1, No. 33, p.300) shall continue to apply after the accession takes effect with the following proviso:

(1) The Trust Agency shall continue to be charged, in accordance with the provisions of the Trusteeship Act, with restructuring and privatizing the former publicly owned enterprises to bring them into line with the requirements of a competitive economy. It shall become a direct institution of the Federation vested with legal capacity and subject to public law. Technical and legal supervision shall be the responsibility of the Federal Minister of Finance, who shall exercise technical supervision in agreement with the Federal Minister of Economics and the respective federal minister. Stakes held by the Trust Agency shall be indirect stakes of the Federation. Amendments to the Charter shall require the agreement of the Federal Government. [...]

(4) The power to raise loans granted to the Trust Agency by Article 27 (1) of the Treaty of 18 May 1990 shall be increased from a maximum total of 17 billion Deutsche Mark to a maximum total of 25 billion Deutsche Mark. The aforementioned loans should, as a rule, be repaid by 31 December 1995. The Federal Minister of Finance may permit an extension of the loan periods and, in the event of a fundamental change in conditions, give permission for the loan ceilings to be exceeded.

(5) The Trust Agency shall be empowered, in agreement with the Federal Minister of Finance, to assume sureties, guarantees and other warranties. [...]

Article 26

Special Fund of the Deutsche Reichsbahn

(1) Upon the accession taking effect, the property and all other property rights of the German Democratic Republic and the Reich property in Berlin (West) belonging to the special fund of the Deutsche Reichsbahn within the meaning of Article 26 (2) of the Treaty of 18 May 1990 shall become the property of the Federal Republic of Germany as the special fund of the Deutsche Reichsbahn. [...]

Article 27

Special Fund of the Deutsche Post

(1) The property and all other property rights belonging to the special fund of the Deutsche Post shall become the property of the Federal Republic of Germany. They shall be combined with the special fund

of the Deutsche Bundespost. [...]

Article 28

Economic Assistance

(1) Upon the accession taking effect, the territory specified in Article 3 of this Treaty shall be incorporated into the arrangements of the Federation existing in the territory of the Federal Republic for economic assistance, taking into consideration the competence of the European Communities. The specific requirements of structural adjustment shall be taken into account during a transitional period. This will make a major contribution to the speediest possible development of a balanced economic structure with particular regard for small and medium-sized businesses.

(2) The relevant ministries shall prepare concrete programs to speed up economic growth and structural adjustment in the territory specified in Article 3 of this Treaty. The programs shall cover the following fields:

- measures of regional economic assistance accompanied by a special program for the benefit of the territory specified in Article 3 of this Treaty; preferential arrangements shall be ensured for this territory;
- measures to improve the general economic conditions in the communes, with particular emphasis being given to infrastructure geared to the needs of the economy;
- measures to foster the rapid development of small and medium-sized businesses;
- measures to promote the modernization and restructuring of the economy, relying on restructuring schemes drawn up by industry of its own accord (e.g. rehabilitation programs, including ones for exports to COMECON countries);
- debt relief for enterprises following the examination of each case individually.

Article 29

Foreign Trade Relations

(1) The established foreign trade relations of the German Democratic Republic, in particular the existing contractual obligations vis-à-vis the countries of the Council for Mutual Economic Assistance, shall enjoy protection of confidence. They shall be developed further and expanded, taking into consideration the interests of all parties concerned and having regard for the principles of a market economy as well as the competence of the European Communities. [...]

Chapter VII

Labour, Social Welfare, Family, Women, Public Health and Environmental Protection

Article 30

Labour and Social Welfare

(1) It shall be the task of the all-German legislator

1. to recodify in a uniform manner and as soon as possible the law on employment contracts and the provisions on working hours under public law, including the admissibility of work on Sundays and public holidays, and the specific industrial safety regulations for women;

2. to bring public law on industrial safety into line with present-day requirements in accordance with the law of the European Communities and the concurrent part of the industrial safety law of the German Democratic Republic.

(2) Employed persons in the territory specified in Article 3 of this Treaty shall be entitled, upon reaching the age of 57, to receive early retirement payments for a period of three years, but not beyond the earliest possible date on which they become entitled to receive a retirement pension under the statutory pension scheme. The early retirement payment shall amount to 65 per cent of the last average net earnings: for employed persons whose entitlement arises on or before 1 April 1991 early retirement payments shall be raised by an increment of five percentage points for the first 312 days. The early retirement payments shall be made by the Federal Institute for Employment along similar lines to unemployment pay, notably the provisions of Section 105c of the Employment Promotion Act. The Federal Institute for Employment may reject an application if it is established that there is a clear lack of manpower in the region to carry out the occupational duties so far discharged by the applicant. The early retirement payments shall be refunded by the Federation in so far as they reach beyond the period of entitlement to unemployment pay. The provisions on early retirement payments shall be applied to new claims up to 31 December 1991. The period of validity may be prolonged by one year.

In the period from this Treaty taking effect up to 31 December 1990, women shall be entitled, on reaching the age of 55, to receive early retirement payments for a period not exceeding five years.

(3) The social welfare supplement to pension, accident and unemployment payments introduced in the territory specified in Article 3 of this Treaty in conjunction with the Treaty of 18 May 1990 shall be limited to new cases up to 31 December 1991. The payments shall be made for a period not extending beyond 30 June 1995. [...]

(5) The details regarding the introduction of Part VI of the Social Code (pension insurance) and the provisions of Part III of the Reich Insurance Code (accident insurance) shall be settled in a federal Act.

For persons whose pension under the statutory pension scheme begins in the period from 1 January 1992 to 30 June 1995

1. a pension shall be payable which is in principle at least as high as the amount they would have received on 30 June 1990 in the territory specified in Article 3 of this Treaty according to the pension law valid until that time, without regard for payments from supplementary or special pension schemes,

2. a pension shall also be paid where, on 30 June 1990, a pension entitlement would have existed in the territory specified in Article 3 of this Treaty under the pension law valid until that time.

In all other respects, the introduction should have the goal of ensuring that as wages and salaries in the territory specified in Article 3 of this Treaty are brought into line with those in the other Länder, so are pensions. [...]

Article 31

Family and Women

(1) It shall be the task of the all-German legislator to develop further the legislation on equal rights for men and women.

(2) In view of different legal and institutional starting positions with regard to the employment of mothers and fathers, it shall be the task of the all-German legislator to shape the legal situation in such a way as to allow a reconciliation of family and occupational life.

(3) In order to ensure that day care centers for children continue to operate in the territory specified in Article 3 of this Treaty, the Federation shall contribute to the costs of these centers for a transitional period up to 30 June 1991.

(4) It shall be the task of the all-German legislator to introduce regulations no later than 31 December 1992 which ensure better protection of unborn life and provide a better solution in conformity with the Constitution of conflict situations faced by pregnant women – notably through legally guaranteed entitlements for women, first and foremost to advice and public support – than is the case in either part of Germany at present. In order to achieve these objectives, a network of advice centers run by various agencies and offering blanket coverage shall be set up without delay with financial assistance from the Federation in the territory specified in Article 3 of this Treaty. The advice centers shall be provided with sufficient staff and funds to allow them to cope with the task of advising pregnant women and offering them necessary assistance, including beyond the time of confinement. In the event that no regulations are introduced within the period stated in the first sentence, the substantive law shall continue to apply in the territory specified in Article 3 of this Treaty. [...]

Article 33

Public Health

(1) It shall be the task of the legislators to create the conditions for effecting a rapid and lasting improvement in in-patient care in the territory specified in Article 3 of this Treaty and for bringing it into line with the situation in the remainder of the federal territory.

(2) In order to avoid deficits arising from expenditure on prescribed drugs by the health insurance scheme in the territory specified in Article 3 of this Treaty, the all-German legislature shall introduce temporary regulations providing for a reduction in producers' prices within the meaning of the Ordinance on the Price of Drugs corresponding to the gap between the income subject to insurance contributions in the territory specified in Article 3 of this Treaty and that in the present federal territory.

Article 34

Protection of the Environment

(1) On the basis of the German environmental union established under Article 16 of

the Treaty of 18 May 1990 in conjunction with the Skeleton Environment Act of the German Democratic Republic of 29 June 1990 (Law Gazette 1, No. 42, p. 649), it shall be the task of the legislators to protect the natural basis of man's existence, with due regard for prevention, the polluter-pays principle, and cooperation, and to promote uniform ecological conditions of a high standard at least equivalent to that reached in the Federal Republic of Germany.

(2) With a view to attaining the objective defined in paragraph 1 above, ecological rehabilitation and development programs shall be drawn up for the territory specified in Article 3 of this Treaty, in line with the distribution of competence under the Basic Law. Measures to ward off dangers to public health shall be accorded priority.

Chapter VIII

Culture, Education and Science, Sport

Article 35

Culture

(1) In the years of division, culture and the arts – despite different paths of development taken by the two states in Germany – formed one of the foundations for the continuing unity of the German nation. They have an indispensable contribution to make in their own right as the Germans cement their unity in a single state on the road to European unification. The position and prestige of a united Germany in the world depend not only on its political weight and its economic strength, but also on its role in the cultural domain. The overriding objective of external cultural policy shall be cultural exchange based on partnership and cooperation.

(2) The cultural substance in the territory specified in Article 3 of this Treaty shall not suffer any damage.

(3) Measures shall be taken to provide for the performance of cultural tasks, including their financing, with the protection and promotion of culture and the arts being the responsibility of the new Länder and local authorities in line with the distribution of competence under the Basic Law.

(4) The cultural institutions which have been under central management to date shall come under the responsibility of the Länder or local authorities in whose territory they are located. In exceptional cases, the possibility of the Federation making a contribution to financing shall not be ruled out, particularly in Land Berlin.

(5) The parts of the former Prussian state collections which were separated as a result of post-war events (including State Museums, State Libraries, Secret State Archives, Ibero-American Institute, State Musicology Institute) shall be joined together again in Berlin. The Prussian Cultural Heritage Foundation shall assume responsibility for the time being. Future arrangements shall likewise involve an agency that is responsible for the former Prussian state collections in their entirety and is based in Berlin.

(6) The Cultural Fund shall be continued up to 31 December 1994 on a transitional basis in the territory specified in Article 3 of this Treaty to promote culture, the arts and artists. The possibility of the Federation making a contribution to financing in line with the distribution of competence under the Basic Law shall not be ruled out. Discussions on a successor institution shall be held in the framework of the talks on the accession of the Länder named in Article 1 (1) of this Treaty to the Cultural Foundation of the Länder.

(7) In order to offset the effects of the division of Germany the Federation may help to finance, on a transitional basis, individual cultural programmes and institutions in the territory specified in Article 3 of this Treaty to enhance the cultural infrastructure.

Article 36

Broadcasting

(1) The Rundfunk der DDR and the Deutscher Fernsehfunk shall be continued as an autonomous joint institution having legal capacity by the Länder named in Article 1 of this Treaty and by Land Berlin in respect of that part where the Basic Law has not been valid to date for a period not extending beyond 31 December 1991 in so far as they perform tasks coming under the responsibility of the Länder. The institution shall have the task of providing the population in the territory specified in Article 3 of this Treaty with a radio and television service in accordance with the general principles governing broadcasting establishments coming under public law. The studio equipment which has belonged to the Deutsche Post to date shall be made over to the institution together with the immovable property serving production and administrative purposes for radio and television. Article 21 of this Treaty shall be applied *mutatis mutandis*.

(2) The executive bodies of the institution shall be

-
1. the Broadcasting Commissioner,
 2. the Advisory Council on Broadcasting. [...]

(5) The institution shall be financed mainly by revenue raised through license fees paid by radio and television users resident in the territory specified in Article 3 of this Treaty. To that extent it shall be the recipient of radio and television license fees. For the rest, it shall cover its expenditure by advertising revenue and other revenue.

(6) Within the period laid down in paragraph 1 above the institution shall be dissolved in accordance with the federal structure of broadcasting through a joint treaty between the Länder named in Article 1 of this Treaty or converted to agencies under public law of one or more Länder. [...]

Article 37

Education

(1) School, vocational or higher education certificates or degrees obtained or officially recognized in the German Democratic Republic shall continue to be valid in the territory specified in Article 3 of this Treaty. Examinations passed and certificates obtained in the territory specified in Article 3 or in the other Länder of the Federal Republic of Germany, including Berlin (West), shall be considered equal and shall convey the same rights if they are of equal value. Their equivalence shall be established by the respective competent agency on application. Legal provisions of the Federation and the European Communities regarding the equivalence of examinations and certificates, and special provisions set out in this Treaty shall have priority. In all cases this shall not affect the right to use academic professional titles and degrees obtained or officially recognized or conferred.

(2) The usual recognition procedure operated by the Conference of Ministers of Education and Cultural Affairs shall apply to teaching diploma examinations. The said Conference shall make appropriate transitional arrangements.

(3) Examination certificates issued under the trained occupation scheme and the skilled workers' training scheme as well as final examinations and apprentices' final examinations in recognized trained occupations shall be considered equal.

(4) The regulations necessary for the reorganization of the school system in the territory specified in Article 3 of this Treaty shall be adopted by the Länder named in Article 1. The necessary regulations for the recognition of examinations under educational law shall be agreed by the Conference of Ministers of Education and Cultural Affairs. In both cases they shall be based on the Hamburg Agreement and the other relevant agreements reached by the said Conference. [...]

Article 38

Science and Research

(1) In the united Germany science and research shall continue to constitute important foundations of the state and society. The need to renew science and research in the territory specified in Article 3 of this Treaty while preserving efficient institutions shall be taken into account by an expert report on publicly maintained institutions prepared by the Science Council and to be completed by 31 December 1991, with individual results to be implemented step by step before that date.

The following provisions are intended to make possible the preparation of this report and ensure the incorporation of science and research in the territory specified in Article 3 of this Treaty into the joint

research structure of the Federal Republic of Germany.

(2) Upon the accession taking effect, the Academy of Sciences of the German Democratic Republic shall be separated as a learned society from the research institutes and other institutions. The decision as to how the learned society of the Academy of Sciences of the German Democratic Republic is to be continued shall be taken under Land law. For the time being the research institutes and other institutions shall continue to exist up to 31 December 1991 as institutions of the Länder in the territory specified in Article 3 of this Treaty in so far as they have not been previously dissolved or transformed. Transitional arrangements shall be made for the financing of these institutes and institutions up to 31 December 1991; the requisite funds shall be provided in 1991 by the Federation and the Länder named in Article 1 of this Treaty. [...]

(6) The Federal Government shall seek to ensure that the proven methods and programs of research promotion in the Federal Republic of Germany are applied as soon as possible to the entire federal territory and that the scientists and scientific institutions in the territory specified in Article 3 of this Treaty are given access to current research promotion schemes. Furthermore, certain schemes for promoting research and development which have expired in the territory of the Federal Republic of Germany shall be reopened for the territory specified in Article 3 of this Treaty; this shall not include fiscal measures. [...]

Article 39

Sport

(1) The sporting structures which are in a process of transformation in the territory specified in Article 3 of this Treaty shall be placed on a self-governing basis. The public authorities shall give moral and material support to sport in line with the distribution of competence under the Basic Law.

(2) To the extent that it has proved successful, top-level sport and its development shall continue to receive support in the territory specified in Article 3 of this Treaty. Support shall be given within the framework of the rules and principles existing in the Federal Republic of Germany and in line with the public-sector budgets in the territory specified in Article 3 of this Treaty. [...]

Chapter IX

Transitional and Final Provisions

Article 40

Treaties and Agreements

(1) The obligations under the Treaty of 18 May 1990 between the Federal Republic of Germany and the German Democratic Republic establishing a Monetary, Economic and Social Union shall continue to be valid unless otherwise provided in this Treaty and unless they become irrelevant in the process of establishing German unity. [...]

Article 41

Settlement of Property Issues

(1) The Joint Declaration of 15 June 1990 on the Settlement of Open Property Issues (Annex III) issued by the Government of the Federal Republic of Germany and the Government of the German Democratic Republic shall form an integral part of this Treaty.

(2) In accordance with separate legislative arrangements there shall be no return of property rights to real estate or buildings if the real estate or building concerned is required for urgent investment purposes to be specified in detail, particularly if it is to be used for the establishment of an industrial enterprise and the implementation of this investment decision deserves support from a general economic viewpoint above all if it creates or safeguards jobs. [...]

Article 42

Delegation of Parliamentary Representatives

(1) Before the accession of the German Democratic Republic takes effect, the Volkskammer shall, on the basis of its composition, elect 144 Members of Parliament to be delegated to the 11th German Bundestag together with a sufficient number of reserve members. Relevant proposals shall be made by the parties and groups represented in the Volkskammer. [...]

Article 45

Entry into Force of the Treaty

(1) This Treaty, including the attached Protocol and Annexes I to III, shall enter into force on the day on which the Governments of the Federal Republic of Germany and the German Democratic Republic have informed each other that the internal requirements for such entry into force have been fulfilled.

(2) The Treaty shall remain valid as federal law after the accession has taken effect.

Done at Berlin on 31 August 1990 in duplicate in the German language.

For the Federal Republic of Germany For the German Democratic Republic Wolfgang Schäuble Günther Krause

Source: Volker Gransow and Konrad Jarausch, eds., *Die Deutsche Vereinigung: Dokumente zu Bürgerbewegung, Annäherung und Beitritt*. Cologne: Verlag Wissenschaft und Politik, 1991, pp. 206–19.

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