

# Forgery in Favor of Territorial Sovereignty—*Privilegium Maius* (1358/59)

## Abstract

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This notorious Austrian forgery dates from the fourteenth century, when the practical devolution of royal authority to the princes was in full swing. Commissioned by Duke Rudolf IV of Austria, it illustrates the degree of independence to which the great princely dynasties of the Empire aspired, but did not yet possess. The forged document purports to be a charter issued by Emperor Frederick I Barbarossa in 1156, and it aims to improve the position of the House of Austria within the Empire, among other things. It describes an event that never took place, the transformation of an Imperial fief into a hereditary principality through the devolution of regalian (royal) rights to the archdukes of Austria. Emperor Charles IV (1316–1378) did not confirm the *Privilegium Maius* since he doubted its authenticity; it was eventually confirmed by the Habsburg Emperor Frederick III (1415–93) in 1453, however. The document wasn't officially proven to be forgery until 1852, at which time the Holy Roman Empire no longer existed.

## Source

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### *Privilegium Maius*

In the name of the holy and indivisible Trinity, Frederick, by the power of God's grace Roman Emperor and ever Conserver of the Empire. Although a mutation of things can gain legality through personal intervention, and although that which was originally legal cannot be overturned by any objection, yet, so that no doubt attaches to an act undertaken, Our Imperial authority is hereby asserted.

Know, therefore, the living and future faithful servants of Christ, of the Empire, and of Us, that, with the cooperation of the grace of He Who has sent peace from heaven to humanity on earth, at a general assembly held ceremoniously at Regensburg on the Feast of the Nativity of Mary [September 8], in the presence of many clergy and faithful, the legal disputes and quarrels that have long raged between Our highly revered uncle, Henry, Duke of Austria, and Our highly revered cousin, Henry, Duke of Saxony, over the Duchy of Bavaria and the March above the River Enns,<sup>[1]</sup> have been settled. They have been settled in such a manner that the Duke of Austria has surrendered the Duchy of Bavaria and the aforesaid March to Us, and after this surrender We thereupon granted this Duchy of Bavaria in fief to the Duke of Saxony. The aforesaid Duke of Saxony, however, surrendered all rights and claims, including his feudal rights, to the aforesaid March. In order that the honor and dignity of Our highly revered uncle shall in no way be diminished by this act, We have, with the advice and consent of the princes—whereby Ladislaus, the illustrious Duke of Bohemia spoke in the name of all the princes present—transformed the Margraviate of Austria and the aforesaid March above the Enns into a Duchy, and We have endowed this Duchy with all the hereinafter named rights, privileges, and graces and by virtue of Imperial magnanimity conferred them on the aforesaid Henry, Our beloved uncle, his most noble consort, Theodora, and their children.

Based on the unique favor we have for Our beloved uncle, Henry of Austria, his most noble consort, Theodora, and their successors, and for the land of Austria—which, as is well known, forms the shield and heart of the Holy Roman Empire—We have, with the advice and consent of the Imperial princes, given to, freely conferred upon, and presented to the aforesaid couple and their successors in this duchy and the aforementioned land of Austria the rights, powers, and authorities named below, which grant is made fully and perpetually by authority of the Imperial office.

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[1] First, the Duke of Austria, no matter what obligations to aid and assist he may have assumed—is not obliged to the Holy Roman Empire or anyone else, with the sole exception that he is bound to serve with twelve mounted and armored men for a month in the Kingdom of Hungary at his expense, and this constitutes proof that he remains a prince of the Empire.

[2] Further, to assume the fief he is not obliged to travel outside the boundaries of Austria, but the enfeoffment shall be given to him within the land of Austria. If it is refused him, he may request enfeoffment from the Empire thrice in writing, and thereafter he may hold his fief without injury to the Empire, as though he had been granted it in person.

[3] Further, the Duke of Austria is not bound to appear at an assembly called by the Empire or by anyone else, though he may do so voluntarily.

[4] Further, the Empire may grant no fiefs within the Duchy of Austria. [2] When, however, a prince or anyone else of whatever rank, noble or commoner, or of any estate, inherits lands in the aforesaid duchy by feudal right, he may not grant or transfer them to another person until after he has been enfeoffed with them by the Duke of Austria. Whoever violates this provision forfeits his fiefs to the Duke of Austria, in whose free legal possession and under whose lordship they shall remain—except, of course, for the ecclesiastical princes and monasteries.

[5] All temporal courts, authority over the forests and game, waters and woods in the Duchy of Austria must be subordinate by feudal law to the Duke of Austria.

[6] Further, the Duke of Austria may not be cited pursuant to any charges or appeals to the Empire or any other court, though he may comply of his own free will. If he wishes, however, he may send one of his vassals, in which case, on the appointed day, he then can and should accept what is declared just before this court.

[7] Further, if this Duke of Austria is challenged by anyone to honorable single combat, he may allow his place to be taken by another without incurring the opprobrium of cowardice. And on the appointed day no prince or anyone else, by pain of loss of reputation, may attack or challenge him.

[8] Further, whatever the Duke of Austria shall ordain or command in his lands and regions may not be changed in any manner, in any way, or at any future time, by the Emperor or any other authority.

[9] And if, which God forbid, the Duke of Austria should die without a male heir, this duchy shall pass to the eldest surviving daughter.

[10] These lands shall forever have as their ruler the eldest of the dukes of Austria, to whose eldest son the rule shall pass by the law of inheritance, though without leaving this lineage. And at no time shall the Duchy of Austria be divided.

[11] If any resident of this duchy, or anyone who has property in it, acts covertly or overtly against the Duke of Austria, his property and person belong without grace to this Duke of Austria.

[12] The Empire shall aid this Duke of Austria against all conspirators and send him aid, so that he may have his rights.

[13] The Duke of Austria shall receive his enfeoffment dressed in a princely garment and wearing a duke's hat adorned with a zinc crown, scepter in hand, and mounted—just as other Imperial princes do.

[14] This duke's installations and deposition in his Duchy of Austria are to be respected, and he may tolerate Jews and public takers of interest—called "Lombards"—in all of his lands, without any

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interference from the Empire.

[15] If the Duke of Austria appears personally at any assembly of the Empire, he is to be regarded as one of the Dukes Palatine, and in session and procession he shall sit on the right side of the Emperor in the first place behind the electors.

[16] The Duke of Austria shall have authority to dispose freely of his lands, to give them or transfer them to whomever he will in the case, which God forbid, that he should die childless. And the Empire may not hinder him in this.

[17] Further, the aforesaid Duchy of Austria shall have each and every right, liberty, and guarantee known to be possessed by other Imperial principalities.

[18] We also desire that, when the circles and regions of this duchy are expanded through inheritances, gifts, purchases, acquisitions, or in any other way, the aforesaid rights, liberties, and guarantees shall be fully possessed by the additions to the aforementioned principality of Austria.

And so that this, Our Imperial mandate, shall remain legally in force and incontestable forever, We have had it prepared in writing and sealed with Our seal.<sup>[3]</sup>—

[...]

Signed by Lord Frederick, the invincible Roman Emperor. I, Chancellor Rainald, representing the Archbishop of Mainz and Imperial Chancellor, have authenticated this document. Given at Regensburg on September 17, in the fourth indiction, in the year of the birth of Our Lord 1156, in the reign of Lord Frederick, Roman Emperor and ever Conserver of the Empire, with Christ's blessing. Amen. In the fifth year of his royal, and the second year of his Imperial, reign.

## NOTES

[1] The Enns River was [and is] the border between the two parts of the original duchy of Austria, Upper Austria [capital at Linz] and Lower Austria [capital at Vienna]—trans.

[2] Fiefs within Austria shall be granted by the archduke, not by the Emperor—trans.

[3] There follow the names of the witnesses, Imperial archbishops, bishops, princes, and counts—trans.

Source of original Latin text and German translation thereof: Lorenz Weinrich, ed., *Quellen zur Verfassungsgeschichte des Römisch-Deutschen Reiches im Spätmittelalter (1250–1500)*. Darmstadt: WBG, 1983, pp. 394–403.

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