

Authorization for Convocation of a Constituent Assembly in the Trizone (July 1, 1948)

Abstract

Beginning in February 1948, the Western Allies met in London for deliberations on Germany's political and economic future and the still unresolved future status of the Ruhr region. Tensions between the Western powers and the Soviet Union grew steadily worse and led to the collapse of the Allied Control Council in Berlin in March 1948. The situation was further exacerbated by the currency reform in the Western zones and the Soviet blockade of Berlin in June 1948. This state of affairs led the Americans and the British to advocate the establishment of a West German constituent state with broad sovereignty. They eventually managed to overcome French opposition to their position. The following documents, which were given to the minister presidents of the West German *Länder* [federal states] at their joint meeting on July 1, 1948, were based on the London decisions of June 7. The first document contained provisions for convening a constituent assembly and framing the constitution of a West German state. The constitution to be drafted would be subject to ratification by the military governors. The second document addressed the boundaries of the *Länder*, and the third document dealt with the occupation statute. In drafting these proposals, the Allies reserved a number of controlling rights for themselves, even in the period after the establishment of the new state. They included rights in the area of foreign and security policy.

Source

The London Documents: Directives regarding the future political organization of Germany, drafted at the London Conference of the Western Foreign Ministers in June 1948 and handed to the Ministers President in the Western Zones of Germany by the military governors at their joint meeting on July 1, 1948.

DOCUMENT I: *Constituent Assembly*

The Military Governors of the US, UK and French Zones of Occupation in Germany, in accordance with the decisions of their respective Governments, authorize the Ministers President of the states of their respective zones to convene a constituent assembly to be held not later than September 1, 1948.

The delegates to this assembly will be chosen in each of the existing states under such procedure and regulations as shall be adopted by the legislative body of each of these states. The total number of delegates to the constituent assembly will be determined by dividing the total populations at the last census by 750,000 or some similar figure as may be recommended by the Ministers President and approved by the Military Governors. The number of delegates from each state will be in the same proportion to the total membership of the constituent assembly that its population is to the total population of the participating states.

The constituent assembly will draft a democratic constitution which will establish for the participating states a governmental structure of federal type which is best adapted to the eventual re-establishment of German unity at present disrupted, and which will protect the rights of the participating states, provide adequate authority, and contain guarantees of individual rights and freedoms.

If the constitution as prepared by the constituent assembly does not conflict with these general

principles, the Military Governors will authorize the submission for ratification. The constituent assembly will thereupon be dissolved. The ratification will take place by each participating state by means of a referendum requiring a simple majority of the voters in each state under such rules and procedure as it may adopt. When the constitution has been ratified by two-thirds of the states, it will come into force and be binding upon all states. Thereafter, any amendment to the constitution must be ratified by a like majority of the states. Within thirty days following the coming into force of the constitution, the institutions for which it provides shall be established.

DOCUMENT II: *Land Boundaries*

The Ministers President are asked to examine the boundaries of the several states in order to determine what modifications they may want to propose. Such modifications should take account of traditional patterns, and avoid, to the extent feasible, the creation of states which are either too large or too small in comparison with the other states.

If these recommendations are not disapproved by the Military Governors, they should be submitted for the approval of the people of the affected areas not later than the time when the members of the constituent assembly are chosen.

Prior to the completion of the work of the constituent assembly, the Ministers President will take the necessary steps for the election of the assemblies of those states, the boundaries of which have been modified, so that these assemblies and those of the states, the boundaries of which have not been modified, will be in a position to determine the electoral procedure and regulations for the ratification of the constitution.

DOCUMENT III: *Occupation Statute*

The establishment of a constitutional German government will necessitate careful definition of the relationship between this government and the Allied Authorities.

It is the view of the Military Governors that this relationship should be based on the following general principles:

A. The Military Governors will grant legislative, executive and judicial power to German governments and reserve to themselves such powers as are necessary to ensure the fulfilment of the basic purpose of the occupation. Such powers are those necessary to enable the Military Governors to:

- (a) Conduct or direct for the time being Germany's foreign relations;
- (b) Exercise the minimum control over German foreign trade, and over internal policies and measures which could adversely affect foreign trade, necessary to ensure a respect for obligations entered into by the Occupying Powers in regard to Germany and the proper use of funds made available to Germany;
- (c) Exercise such controls as have been or may be agreed upon, as for example, regarding the international authority for the Ruhr, reparations, the level of industry, decartelization, disarmament and demilitarization, and certain aspects of scientific research.
- (d) Protect the prestige and ensure the security of the occupation forces and the satisfaction of their requirements within defined limits agreed upon between the Military Governors;
- (e) Ensure the observance of the constitutions which they have approved.

B. The Military Governors will resume their exercise of their full powers in an emergency threatening security, and if necessary to secure compliance with the constitutions or the occupation statute.

C. The Military Governors will exercise the above-mentioned controls according to the following procedure:

(a) Any amendments to the constitutions will be submitted to the approval of the Military Governors;

(b) In the fields mentioned in (a) to (e) of paragraph A above, the German authorities will comply with the decisions or directions of the Military Governors;

(c) Unless otherwise provided, in particular for implementation of paragraph (b) above, all laws and regulations emanating from the federal government shall come into force automatically within 21 days unless disapproved by the Military Governors.

The Military Governors will have special responsibility to observe, advise and assist the federal and state governments in regard to the democratization of political life, social relations and education. This shall not imply any restriction of the legislative, executive and judicial competence accorded to such governments in these matters.

The Military Governors request the Ministers President to submit their observations on the above principles. The Military Governors will then communicate these broad principles, modified as they may then agree, to the constituent assembly, as a guide to that body in its work of preparing the constitution, and will receive from it the observations which it may wish to put forward. When the Military Governors announce their approval for the submission of the constitution to the states they will publish simultaneously an occupation statute incorporating these principles as finally modified in order that the people of the states may understand that they accept the constitution within the framework of this occupation statute.

APPENDIX TO DOCUMENT III: *Liaison Officers*

Representatives of the Military Governors will be available to advise and assist the Ministers President and the constituent assembly on any matters which they may bring to their attention.

Source: The London Documents (July 1, 1948) in United States Department of State, *Germany 1947-1949: The Story in Documents*. Washington, DC: U.S. Government Printing Office, 1950, p. 275; reprinted in Beata Ruhm von Oppen, ed., *Documents on Germany under Occupation, 1945-1954*. London and New York: Oxford University Press, 1955, pp. 315-18.

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