Bavarian Edict on the Establishment of a Gendarmerie (October 11, 1812)

Abstract

Bavaria was one of numerous German states that emulated the French in establishing a Gendarmerie, an armed police force that stood between local police officials and the army. The Gendarmerie was entrusted especially with maintaining law and order in the countryside and along state borders, especially against armed bands, vagrants, poachers, and smugglers. But as this excerpt shows, their powers were far-reaching and also encompassed the suppression of popular tumults. The Gendarmerie Edict shows that Bavarian state power was wary of the potential for unruliness in a still largely pre-industrial society and that it sought to impose a "modern" administrative-legal discipline on that society, despite its use of a language of "citizenship" rather than "subjecthood."

Source

I. *Establishment of the gendarmerie*

A gendarmerie is to be set up, and beginning next year it shall be assigned with the handling of police matters, which has hitherto been the duty of the police cordon, as well as preserving the peace, order, and security within the Reich. […]

III. *Formation of the gendarmerie*

Art. 3. The gendarmerie will consist of 343 cavalrymen and 1,332 infantrymen, not counting the superior officers and the field officers. […]

IV. *Location of the gendarmerie*

[…]

Art. 11. The commander of the first legion will have his seat in Munich and will distribute his forces within the Isar-, Inn-, and Salzach-Districts.

The commander of the second legion will reside in Augsburg and will deploy his forces in the Iller-, Upper Danube-, and Rezat-Districts.

The commander of the third legion, finally, will stay in Regensburg and will extend his sphere to the forces dispersed in the Main-, Regen-, and Lower Danube Districts. […]

V. *Appointment of officers, subaltern officers, and common soldiers*

[…]

Art. 14. In the first nomination, all captains and lieutenants should, if possible, be chosen from the class of those qualified who have served no fewer than four years among the line troops, and most recently without blemish in the same or immediately preceding rank, and who are neither under 25 nor over 50 years of age, healthy, and completely able-bodied.

Art. 15. The legion commanders, in particular, must have served six years and most recently as staff

officers in the army in active service.

Art. 16. The general commanding the corps will be chosen at all times from the class of the most deserving higher officers of the army or from among the legion commanders.

[…]

Art. 19. No persons must be accepted as subaltern officers and common troops in the gendarmerie other than those who have served at least six years in the army, have been on at least one campaign, and who have been honorably discharged; in particular, however, the mounted gendarmerie must have spent the six years of military service in the cavalry; incidentally, a gendarme must not be under 25 or over 40 years of age, must be able to read and write well, and must measure at least 5 foot 4 inches. […]

XIII. *Regular service of the gendarmerie*

Art. 121. The gendarmerie collects everywhere the reports about crimes that have been committed and brings them before the competent police and judicial authorities.

Art. 122. It arrests vagrants, highwaymen, arsonists, and murderers, individually and when they congregate in gangs, and in general all criminals who are caught in the act, and all those who are publicly wanted for crimes they have committed, to which end the officers of the court and the police provide it with descriptions of the same.

Art. 123. It also arrests those who fall under suspicion of a crime by carrying bloody weapons, possessing stolen or robbed items, or by other sure indications.

Art. 124. It arrests the violators of forest and field, poachers, and armed customs and toll cheaters, but only if they catch them in the act.

Art. 125. It prevents and breaks up every unauthorized crowd, though it must behave in accordance with the regulations spelled out below.

Art. 126. It keeps a watchful eye on vagrants and vagabonds, to which end the community leaders are obliged to report to the gendarmes these kinds of individuals in their midst.

Art. 127. It composes written notices about corpses that are found on the road, in the forest, and in the countryside, or have been pulled from the water, and hands these reports over to the closest civil or police officials, after having made the necessary provisions to guard the corpse for the time being; at the same time, it informs the nearest officer of the gendarmerie of this, who must then immediately seek out the location.

Art. 128. It prepares the same reports if a fire takes place, or if a break-in, murder, or other crime is committed that leaves behind traces; in which case it makes a detailed account in its written report of the act itself, the special circumstances that have occurred, and an indication regarding the perpetrator, to the extent that he is known or merely suspected of the act.

Art. 129. It likewise includes in its reports every explanation and information it receives from the residents of a place where a crime was committed, from the neighbors, relatives, etc., about the perpetrator of the crime, and the co-perpetrators, whereby it will diligently record the name of the informant.

Art. 130. It is present at all larger assemblies of the people, at weekly and annual fairs, public feasts and celebrations, and maintains order and peace.

Art. 131. It escorts captured and condemned criminals and guards them if they cannot be kept in secure jails along the way.

Art. 132. It pursues and arrests deserters and those members of the military who do not have a formal leave or discharge.

Art. 133. It ensures that soldiers on leave return to their corps after the end of their leave, which is why every person on leave must, upon his arrival and departure, have his pass examined by the closest lieutenant or captain of the gendarmerie, who will maintain a separate record of this.

Art. 134. When troops are on the march in the land, it follows the rear guard and brings stragglers to their corps, and arrests those who commit excesses, in the case of native troops both on the march and in quarters; with foreign troops, however, it follows the special regulations it was given after prior consultation with the troop commander.

Art. 135. It detains everywhere foreign persons who have either no passport or no proper passport, and presents them to nearest police officer.

Art. 136. It arrests those who, out of carelessness or negligence, have harmed someone on the street or in public places by riding, driving, or in some other way, or who engage in malicious mischief in places dedicated to public enjoyment and comfort.

Art. 137. It ensures good order on the highways, maintains free communication at all times, admonishes coachmen and carters to remain with their horses and to adhere to the other road regulations, to which end they are authorized to hand over those who resist them to the nearest authority, which immediately carries out the punishment of the recalcitrant person.

Art. 138. As a necessary means for carrying out all of the regular official duties listed above, it behooves the gendarmerie to constantly patrol the main roads as well as the secondary and adjoining roads, namely in the districts especially assigned to each brigade, such that in turn at least one third of the troops is occupied with this duty. […]

Art. 143. The performance of all of these duties, which are the obligation of the gendarmerie without any previous requisition by a public authority, is regularly entered into the duty book by every brigade, from which the extracts are conveyed monthly to the *Landgericht* [provincial court of justice] in which the brigades are stationed, from there to the relevant Commissariat General, and from there to the Ministry, in a uniform compilation with the necessary comments, just as the same reports are simultaneously sent every month by the brigades to the commander of the company, by him to the commander of the legion, and, finally, by him to the general, who likewise presents them to the Ministry of the Interior with his comments. […]

XVII. *Relations to the military and the national guard*

Art. 174. The gendarmerie, which holds the first place within the military budget, can, even though it is subject only to the highest policy authority of the Reich in its regular duty, be removed from that setting and assigned to the other parts of the armed force, both in war and in peacetime.

Art. 175. In the former case, the Ministry of the Interior, after prior consultation with the Ministry of War, decides which units of the corps can be given up to perform policing duty in an army corps that is on a war footing, or to perform other duties against the external enemy. […]

Art. 177. In peacetime, the gendarmerie can perform duties together with the military, if the latter is requisitioned when the gendarmerie is inadequate to preserve the public order. […]

XVII. *Special duties and powers of the gendarmerie*

Art. 190. No traveler, of whatever estate he might be, may refuse to present his passport to the gendarmerie, while the gendarmerie is obligated to keep watch on propriety at all times, and must be identifiable, when carrying out these things, by its complete uniform.

Art. 191. The gendarmerie is entitled to visit taverns and guesthouses, as well as other buildings open to the public, at any hour of the day, up to the time when they must be closed in accordance with public regulations, in order to find there those persons who are publicly identified as criminals, or whose apprehension the relevant authorities have ordered.

Art. 192. The innkeepers and hosts are obligated, upon request, to present to the officers and brigade commanders the list of the foreigners under their roof.

Art. 193. At nighttime, the gendarmerie may force its way into a house only if its presence is necessary to protect the owner against the danger of fire or water, to pursue a robber or murder who has entered, or if it is asked to do so by the residents of the house themselves.

Art. 194. By contrast, during daytime the gendarmerie may demand entry into the house of every private person, if a written order by the police or the presence of an official himself give it the authority to do so.

Art. 195. If it does not have such an order, and if it believes that a fugitive criminal is in the house, it is authorized to guard said house until the report has been made to the police authorities and it has given the order to search the house.

Art. 196. If a gendarme, be he officer, subaltern officer, or common troop, is insulted or threatened by word or deed in the exercise of his duties, the laws that come into play in this case for the military are applicable, and the officer in charge is authorized to have the guilty arrested, whatever their estate may be, and to see to their punishment in accordance with the laws.

Art. 197. If the gendarmerie is physically impeded in the exercise of its duties, and is attacked, and the leader of the same has called for aid in a loud voice, everyone who has heard the call is obligated to lend him a helping hand to fend off the attack that was dared against him and to put him in a position to carry out his charges.

Art. 198. On the other hand, the gendarmerie, if it is requisitioned to carry out the orders of the judiciary and the police, or it is carrying out its regular duty, can employ force and make use of its weapons only if force is used against it, or if the opposition it encounters in performing its duty is such that it can be dispelled only by force of arms.

Art. 199. In cases where crowds gather, the gendarmerie can break the resistance with force of arms only if it is authorized to do so by an explicit requisitioning of the police authorities and is accompanied by an individual of the same, who first calls the rioters to obedience three times with a loud voice and orders them to disperse, and warns them to yield to force; if the resistance continues after this demand, the assembled rioters do not remove themselves peacefully, they are dispersed by force, and the gendarmerie is no longer responsible for the consequences, and it seizes all those it can lay its hands on to hand them over to the police.

Art. 200. The commanders of the gendarmerie, the leaders of the brigades, and the individual gendarmes who refuse to carry out the legal requisitioning of the civil authorities shall be, upon notification of the same, suspended on the spot, and given a punishment of incarceration that may not be less than 3 months, with no affect on those harsher penalties that the penal laws impose on the violation of public safety if such a violation were the result of the aid refused by the gendarmerie.

Art. 201. If, on the other hand, an officer, subaltern officer, or common troop of the gendarmerie should take the liberty to issue or carry out an arrest warrant against a person whose arrest is not permitted and ordered according to a current decree, in order to immediately hand this person over to the police authorities, the same will be put before the relevant military court and given the penalty for the abuse of official authority.

Art. 202. Subject to the same treatment are those gendarmes who detain persons they have arrested as a consequence of current decree or upon a legal requisition in prisons that were not explicitly and publicly intended for that purpose by the judicial and police authorities. […]

Art. 205. Any force the gendarmerie employs during arrests in fulfillment of its duties without having been authorized to do so by the regulations of the current decree, will be severely punished by the penal laws as illegal, and the commanders as well as the civil authorities must see to it that the prisoners are not insulted either by mockery nor other acts, and that they suffer no force unless they make the same necessary through their resistance to the law.

Art. 206. As it is, the gendarmerie, in the internal and external performance of its duties, must behave with propriety and modesty, and treat everyone, though he be of the lowest estate, with the kind of respect to which he is entitled as a citizen of the state.

Source of original German text: *Königlich-Baierisches Regierungsblatt* [*Royal Bavarian Gazette*] (1812), Col. 1737-43, 1746-52, 1757, 1762 f., 1766-73, 1777 f., 1781-84.

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