

Law Governing Divorce in the Grand Duchy of Baden (1809)

Abstract

Under Privy Councillor J.N.F. Brauer, the government of Grand Duke Carl Friedrich adapted the Napoleonic Code to Baden's social and cultural conditions. Apart from the Rhineland and Westphalia, which were ruled directly by Napoleonic governors, Baden was the only German principality to embrace the French Code, though in conservative form. Here are the Badenese provisions governing divorce.

Source

Book I

Part Six. On Divorce.

First Chapter. On the Causes of Divorce.

229. The husband can demand divorce because of adultery committed by his wife.

230. The wife is entitled to file for divorce because of adultery committed by her husband if he has been with a mistress in their shared home.

230a. The latter point is considered proven if she [the mistress] is staying close enough to the husband, be it within the country or abroad, that they can get together.

231. Both spouses can file for divorce because of a danger to their lives, severe abuse or major insults of one against the other.

232. If one spouse is sentenced to a dishonorable punishment or its legal equivalent this shall be grounds for divorce for the other.

232a. Presumption of death, fleeing the country for three years, or madness of the same duration are also retained as grounds for divorce under the formerly defined legal circumstances.

233. The mutual and persistent agreement of both spouses, expressed formally and under the conditions and examinations as prescribed by the law, shall be considered adequate proof that they cannot bear living together and that sufficient grounds for a divorce therefore exist.

[...]

Source: *Land-Recht für das Großherzogthum Baden nebst Handelsgesetzen*. Karlsruhe: C. F. Müller, 1814, pp. 62 f., 139, 153–55, 249; reprinted in Walter Demel and Uwe Puschner, eds., *Von der Französischen Revolution bis zum Wiener Kongreß 1789-1815*, Deutsche Geschichte in Quellen und Darstellung, ed. Rainer A. Müller, vol. 6. Stuttgart: P. Reclam, 1995, p. 227.

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Recommended Citation: Law Governing Divorce in the Grand Duchy of Baden (1809), published in: German History in Documents and Images, <<https://germanhistorydocs.org/en/the-holy-roman-empire-1648-1815/ghdi:document-3634>> [July 16, 2024].