

Decree on the Protection of the Republic (June 24, 1922)

Abstract

In response to the politically motivated murders of democratic politicians, emergency decrees for the protection of the republic were issued several times during the Weimar Republic in accordance with Article 48 of the constitution. The first of these decrees was issued by Reich President Ebert after Matthias Erzberger was murdered by members of the right-wing terrorist Organisation Consul in August 1921. Immediately after the assassination of Foreign Minister Walter Rathenau on June 24, 1922, which was carried out by members of the same terrorist organization, another emergency decree was issued. The protocol of the Reichstag session from that day, which is reproduced here, includes the speech of Chancellor Joseph Wirth (Zentrum) as well as the text of the decree, which came into force two days later. In addition to banning anti-republican associations, events and printed material, the decree also announced the establishment of a special court to try anti-republican crimes in the future. One month after the decree was issued, an almost identical law was passed: the Law for the Protection of the Republic of July 21, 1922 [*Republikenschutzgesetz*].

Source

235th session.

Saturday, June 24, 1922.

President Löbe opens the session at 8:04.

President: The session is open.

The only item on the agenda is

Acceptance of a declaration by the Reich government.

The Reich Chancellor will speak to this declaration.

Dr. **Wirth**, Reich Chancellor: Ladies and Gentlemen! The government of the Reich addresses the following appeal and exhortation to the German people:

The **murder of Reich Minister Dr. Rathenau** has revealed the grave dangers to which internal political turmoil has exposed Germany. The admonitions to set aside partisan strife and disputes about the past and devote all of the nation's energies to building up and saving the fatherland have gone unheard. Ceaseless and wretched **sedition** that targets the form of our state and its servants, whom it declares to be outlaws, has repeatedly inspired confused, politically deluded or feral minds to attempt and commit murder. A net of conspiracy threatens to destroy our domestic peace, the foundation of German renewal. The murder of Rathenau is but one link in a chain of well-planned attacks on the Republic.

(Very true! from the left.)

First the leaders of the Republic are to be brought down, then the Republic itself.

(Lively agreement from the left.)

Drastic measures are necessary to **defend against this criminal assault.**

(Quite right! from the left and the center.)

The growing terror, the nihilism,

(Quite right! from the center)

that often hides behind the guise of nationalist attitudes,

(Very true! from the German Democrats)

must no longer be treated with leniency.

(Lively agreement on the left.)

The cry “the Republic is in danger” must unite all liberal-minded strata of the population who are working to establish a democratic polity.

(Very true! from the left and center.)

In this hour of deepest mourning, the national cabinet, robbed by insidious murder of one of its most capable and best members, acknowledges the **political demand of the hour**. Facing imminent danger, we must act quickly. The Reich government has thus recommended to the Reich President that he make use of his constitutional authority and issue a decree for the **protection of the state and the republic** and the life of its representatives who are threatened by murderous political organizations. It will ensure the strictest implementation of this decree

(Bravo! from the left and center)

and immediately prepare, through legal provisions, to counteract the moral and political corrosion that gravely imperils the very foundations of the state. The government of the Reich understands the deep disquiet among the people. It regrets the economic repercussions of such madness, which hit the working class hardest.

(Very true! from the left and center.)

The Reich government hopes that the German people, who are understandably upset, do not allow themselves to be encouraged to take steps that only further increase the economic and political harm and chaos.

(Very good! from the German Democrats.)

It expects, rather, that the German people will stand behind the efforts of the Reich government, and therefore issues to the civil service and workers of all parties as well as to the entire liberal middle class the earnest and urgent admonition to stand together to protect the state in times of emergency and peril.

(Bravo!)

Long live the Republic! — The government of the Reich!

(Lively approval.)

As I already stressed, the Reich government has recommended that the Reich President make use of his

constitutional right according to Art. 48. The **Reich President**, who will return to Berlin immediately, has resolved to issue the following decree:

Decree on the protection of the Republic, June 24,1922.

Based on Art. 48 of the Constitution of the German Empire, I order the following measures to restore public safety and order on German territory:

I. Banned organizations.

§ 1. Assemblies, marches and rallies may be forbidden if there is a well-founded concern that statements may be made there that incite the illegal removal of the republican form of state or acts of violence towards members of the current or a previous republican government of the Reich or one of its states, condone or glorify such acts, or express contempt for republican institutions in a manner that endangers the internal peace of the state.

Associations and organizations that pursue efforts of this kind may be banned and disbanded.

§ 2. Responsible for measures according to § 1 are the central authorities of the states or the agencies stipulated by them.

(Hear! Hear! from the far left.)

The Reich minister of the interior can ask the central authorities of the states to enact such a measure. If the central authority of the state believes it cannot fulfill this request, it is to inform the Reich minister of the interior no later than the second day after receiving the request and simultaneously invoke the decision of the state constitutional court stipulated in Section III for the protection of the Republic. If the latter decides in favor of the measure, the central authority of the state must immediately take the necessary measures.

§ 3. A complaint may be lodged against an order pursuant to § 1 within two weeks from the date of delivery or publication; it has no suspensive effect. The complaint should be submitted to the central authority of the state. The latter may remedy it, except in cases of § 2 para. 2; otherwise, it is to present the complaint without delay to the constitutional court for its decision for the protection of the Republic.

§ 4. Anyone who organizes or speaks at assemblies, marches or rallies forbidden under § 1 will be punished by 3 months to 5 years in prison, in addition to a possible monetary fine of up to 500,000 marks.

II. Penal provisions for the protection of the Republic.

§ 5. The following may be punished by 3 months to 5 years in prison, in addition to a possible monetary fine of up to 500,000 marks, unless other regulations threaten a more severe penalty:

1. Anyone who publicly glorifies or condones violent acts against the republican form of state or members of the current or previous republican government of the Reich or one of its states or who rewards or favors such violent acts;
2. Anyone who incites acts of violence against members of the present or previous republican government of the Reich or one of its states, or who incites or conspires with another to commit such acts of violence;
3. Anyone who slanders or publicly insults members of the current or previous republican government of the Reich or one of its states;

4. Anyone who publicly insults the republican form of state or the Reich or state colors;

(lively approval from the right and center);

5. Anyone who participates in an organization of the type referred to in § 128 and § 129 of the Criminal Code if the purpose of the organization is to undermine the republican form of government.

III. Constitutional court for the protection of the Republic.

§ 6. At the Reichsgericht

(laughter and shouts from the Communists)

a constitutional court will be established for the protection of the republic.

(More shouts from the Communists.)

The court will make its decisions with seven members. Three members will be appointed by the presidium of the Reichsgericht from among the members of the Reichsgericht; four members will be appointed by the Reich president.

(Lively approval from the Social Democrats and the Independent Social Democrats.)

The members appointed by the Reich president do not need to be qualified for judicial office.

(Tumultuous approval from the Social Democrats and the Independent Social Democrats.)

Deputies will be appointed for the regular members. The necessary supplemental orders will be issued by the Reich minister of justice.

The prosecuting authority is the Reich prosecutor's office.

(Hear! Hear! from the Communists.)

§ 147 para. 2 and § 153 of the Courts Constitution Act apply accordingly.

The provisions governing the proceedings before the criminal courts will be applied accordingly.

(Hear! Hear! from the Communists.)

The Reich minister of justice can issue special provisions.

§ 7. The constitutional court is responsible:

1. for acts of violence against the republican form of state of the Reich or against members of the current or previous republican government of the Reich or one of its states;

2. for offenses punishable under § 5 of this ordinance.

The prosecuting authority may transfer an investigation to the competent local public prosecutor's office; the constitutional court may refer an investigation pending before it to ordinary proceedings at the request of the prosecuting authority.

These provisions are also to be applied to punishable offenses committed before these ordinances came into effect.

(Bravo! From the Social Democrats.)

If a judgement has already been issued in the case against which an appeal is admissible, the ordinary courts shall decide on the appeal.

IV. Confiscation and prohibition of publications.

§ 8. The provisions of the Imperial Press Law of May 7, 1874 on the confiscation of printed publications (§§ 23 ff of the Law) also apply to the offenses specified in § 5 of this decree, subject to the proviso that an immediate appeal shall be lodged against the court's order revoking the provisional confiscation and that the appeal shall have suspensive effect.

§ 9. If the confiscation of a periodical publication is ordered or affirmed by the responsible court, the publication can be banned for a period of up to four months. The provisions of §§ 2 and 3 apply to jurisdiction and procedure.

§ 10. Anyone who edits, publishes, prints or distributes a periodical publication banned under § 9 will be punished by three months to five years in prison, in addition to a possible fine of up to 500,000 marks.

V. Final provisions.

§ 11. Members of the Reich government as defined in this decree are the president, the chancellor and the ministers.

§ 12. Articles 118, 123, 124 of the Reich constitution are temporarily suspended insofar as they conflict with the provisions of this decree.

§ 13. The decree comes into force upon its promulgation.

There is an additional decree:

Decree on the prohibition of certain assemblies, June 24, 1922.

In view of the general high level of excitement among the population, which may lead to serious incidents at the events listed below, I decree the following based on Art. 48 of the constitution of the Reich to restore public safety and order on the territory of the Reich:

§ 1. The state central authorities are authorized to ban the events planned for June 28, 1922 to discuss the adoption of the peace treaty or related issues, including those outside the cases mentioned in Article 123 of the Reich constitution.

(Bravo! from the German Democrats.)

The same applies until further notice to regimental celebrations and other assemblies

(lively shouts of Bravo from the Social Democrats and the German Democrats)

involving members of former military units.

Anyone organizing an assembly forbidden hereby or speaking at such an event will be punished by three months to five years in prison, in addition to a possible monetary fine of up to 500,000 marks.

Art. 118 and 123 of the Reich constitution are temporarily suspended insofar as they conflict with the provisions of this decree.

§ 2. The decree comes into force upon its promulgation.

(Lively approval.)

President: Ladies and gentlemen! I request your agreement that the debate on the statement just heard, as proposed by the parties on the committee of elders, be conducted at a session to be held tomorrow, Sunday, June 25, at noon. - The House agrees.

The session is closed.

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