

The Weimar Constitution (August 11, 1919)

Abstract

After the National Assembly had voted 262 to 75 in favor of the draft constitution on July 31, 1919 (the votes against came from the USPD, DVP and DNVP), President Ebert signed the constitution on August 11, 1919. Three days later, the first democratic constitution in German history came into force. The text of the constitution was largely written by the constitutional lawyer Hugo Preuß, who had been one of the founders of the left-liberal German Democratic Party (DDP) in 1918. He had been a state secretary in the Ministry of the Interior since November 1918 and was commissioned by Friedrich Ebert to draft the constitution. Nazi propaganda would later use Preuß's Jewish background as an excuse to denigrate the Weimar Constitution and the Republic as a whole as "un-German."

The Weimar Constitution combined elements of various democratic traditions. The newly created republic was a representative democracy, with the government being responsible to parliament; there was also the plebiscitary instrument of the referendum, as well as the direct election of the president, who had considerable powers. The foundation of the Weimar Constitution rested on the principles of popular sovereignty, separation of powers and fundamental rights – which now also included the legal equality of women.

Source

Preamble:

The German people, united in all their racial elements, and inspired by the will to renew and strengthen their Reich in liberty and justice, to preserve peace at home and abroad and to foster social progress, have established the following constitution:

CHAPTER I: STRUCTURE AND FUNCTIONS OF THE REICH

Section I: Reich and States

ARTICLE 1

The German Reich is a Republic. Political authority emanates from the people.

ARTICLE 2

The territory of the Reich consists of the territories of the German member states. [...]

ARTICLE 3

The Reich colors are black, red, and gold. The merchant flag is black, white, and red, with the Reich colors in the upper inside corner.

ARTICLE 4

The generally accepted rules of international law are to be considered as binding integral parts of the German Reich.

ARTICLE 5

Political authority is exercised in national affairs by the national government in accordance with the Constitution of the Reich, and in state affairs by the state governments in accordance with the constitutions.

[...]

ARTICLE 12

Insofar as the Reich does not exercise its jurisdiction, such jurisdiction remains with the states with the exception of cases in which the Reich possesses exclusive jurisdiction. [...]

ARTICLE 17

Every state must have a republican constitution. The representatives of the people must be elected by universal, equal, direct, and secret suffrage of all German citizens, both men and women, in accordance with the principles of proportional representation. [...]

Section II: The Reichstag

ARTICLE 20

The Reichstag is composed of the delegates of the German people.

ARTICLE 21

The delegates are representatives of the whole people. They are subject only to their own conscience and are not bound by any instructions.

ARTICLE 22

The delegates are elected by universal, equal, direct, and secret suffrage by men and women over twenty years of age, according to the principle of proportional representation. Election day must be a Sunday or a public holiday. [...]

ARTICLE 23

The Reichstag is elected for four years. New elections must take place at the latest on the sixtieth day after this term has run its course. [...]

ARTICLE 32

For decisions of the Reichstag a simple majority vote is necessary, unless the Constitution prescribes another proportion of votes. [...]

ARTICLE 33

The Reichstag and its committees may require the presence of the Reich Chancellor and every Reich Minister. [...]

Section III: The Reich President and the Reich Cabinet

ARTICLE 41

The Reich President is elected by the whole German people. Every German who has completed his thirty-fifth year is eligible for election. [...]

ARTICLE 42

On assuming office, the Reich President shall take the following oath before the Reichstag:

I swear to devote my energies to the well-being of the German people, to further their interests, to guard them from injury, to maintain the Constitution and the laws of the Reich, to fulfill my duties conscientiously, and to administer justice for all.

It is permissible to add religious affirmation.

ARTICLE 43

The term of office of the Reich President is seven years. Re-election is permissible.

Before the expiration of his term, the Reich President, upon motion of the Reichstag, may be recalled by a popular vote. The decision of the Reichstag shall be by a two-thirds majority. Through such decision the Reich President is denied any further exercise of his office. The rejection of the recall motion by the popular referendum counts as a new election and results in the dissolution of the Reichstag. [...]

ARTICLE 48

If any state does not fulfill the duties imposed upon it by the Constitution or the laws of the Reich, the Reich President may enforce such duties with the aid of the armed forces.

In the event that the public order and security are seriously disturbed or endangered, the Reich President may take the measures necessary for their restoration, intervening, if necessary, with the aid of the armed forces. For this purpose he may temporarily abrogate, wholly or in part, the fundamental principles laid down in Articles 114, 115, 117, 118, 123, 124, and 153.

The Reich President must, without delay, inform the Reichstag of all measures taken under Paragraph 1 or Paragraph 2 of this Article. The Reichstag may vote to annul these measures.

[...]

ARTICLE 50

All orders and decrees of the Reich President, including those relating to the armed forces, must, in order to be valid, be countersigned by the Reich Chancellor or

by the appropriate Reich Minister. Responsibility is assumed through the countersignature.

[...]

ARTICLE 52

The Reich Cabinet consists of the Reich Chancellor and the Reich Ministers.

ARTICLE 53

The Reich Chancellor and, on his recommendation, the Reich Ministers, are appointed and dismissed by the Reich President.

ARTICLE 54

The Reich Chancellor and the Reich Ministers require for the exercise of their office the confidence of the

Reichstag. Any one of them must resign if the Reichstag by formal resolution withdraws its confidence.

ARTICLE 55

The Reich Chancellor presides over the government of the Reich and conducts its affairs according to the rules of procedure laid down by the government of the Reich and approved by the Reich President.

ARTICLE 56

The Reich Chancellor determines the political program of the Reich and assumes responsibility to the Reichstag. Within this general policy each Reich Minister conducts independently the office entrusted to him and is held individually responsible to the Reichstag.

[...]

Section IV: The Reichsrat

ARTICLE 60

A Reichsrat is formed to give the German states representation in the law-making and administration of the Reich.

ARTICLE 61

Each state has at least one vote in the Reichsrat. In the case of the larger states one votes shall be assigned for every million inhabitants.^[1] [...] No single state shall have more than two fifths of the total number of votes. [...]

ARTICLE 63

The states shall be represented in the Reichsrat by members of their governments. [...]

Section V: Reich Legislation

ARTICLE 68

Bills are introduced by the Reich cabinet, with the concurrence of the Reichsrat, or by members of the Reichstag.

Reich laws shall be enacted by the Reichstag.

[...]

ARTICLE 73

A law of the Reichstag must be submitted to popular referendum before its proclamation, if the Reich President, within one month of its passage, so decides. [...]

ARTICLE 74

The Reichsrat may protest against laws passed by the Reichstag. [...] In case of such protest [...], the law is returned to the Reichstag, which may override the objection by a two-thirds majority. The Reich President must either promulgate the law within three months or call for a referendum.

[...]

ARTICLE 76

The Constitution may be amended by law, but acts amending the Constitution can only take effect if two thirds of the legal number of members are present and at least two thirds of those present consent.

[...]

CHAPTER II: FUNDAMENTAL RIGHTS AND DUTIES OF THE GERMANS

Section I: The Individual

ARTICLE 109

All Germans are equal before the law.

Men and women have the same fundamental civil rights and duties.

Public legal privileges or disadvantages of birth or of rank are abolished. Titles of nobility [...] may be bestowed no longer. [...] Orders and decorations shall not be conferred by the state.

No German shall accept titles or orders from a foreign government.

ARTICLE 110

Citizenship of the Reich and the states is acquired in accordance with the provisions of a Reich law. [...]

ARTICLE 111

All Germans shall enjoy liberty of travel and residence throughout the whole Reich. [...]

ARTICLE 112

Every German is permitted to emigrate to a foreign country. [...]

ARTICLE 114

Personal liberty is inviolable. Curtailment or deprivation of personal liberty by a public authority is permissible only by authority of law.

Persons who have been deprived of their liberty must be informed at the latest on the following day by whose authority and for what reasons they have been held. They shall receive the opportunity without delay of submitting objections to their deprivation of liberty.

ARTICLE 115

The house of every German is his sanctuary and is inviolable. Exceptions are permitted only by authority of law.

[...]

ARTICLE 117

The secrecy of letters and all postal, telegraph, and telephone communications is inviolable. Exceptions are inadmissible except by national law.

ARTICLE 118

Every German has the right, within the limits of the general laws, to express his opinion freely by word, in writing, in print, in picture form, or in any other way. [...]

Censorship is forbidden. [...]

Section II: The General Welfare

ARTICLE 119

Marriage, as the basis of family life and the preservation and propagation of the nation, shall be under the special protection of the Constitution. It is based on the equal rights of the two sexes.

The maintenance, health and social promotion of the family is the responsibility of the state and the municipalities. Families with many children are entitled to compensatory care.

Motherhood is entitled to the protection and care of the State.

ARTICLE 120

The education of offspring to physical, mental and social efficiency is the supreme duty and natural right of parents, whose activities are supervised by the State community.

ARTICLE 121

Legislation shall create for illegitimate children the same conditions for their physical, mental and social development as for legitimate children.

ARTICLE 122

Youth shall be protected against exploitation and against moral, mental or physical neglect. The State and the community shall provide the necessary facilities. Welfare measures by way of coercion may only be ordered on the basis of the law.

ARTICLE 123

All Germans have the right to assembly peacefully and unarmed without giving notice and without special permission. [...]

ARTICLE 124

All Germans have the right to form associations and societies for purposes not contrary to the criminal law. [...]

ARTICLE 126

Every German has the right to petition. [...]

ARTICLE 128

All citizens without distinction shall be admitted to public office in accordance with the law and according to their ability and merit.

All exceptions against female civil servants shall be abolished.

The basis of the civil service relationship shall be regulated by laws of the Reich.

Section III: Religion and Religious Societies

ARTICLE 135

All inhabitants of the Reich enjoy full religious freedom and freedom of conscience. The free exercise of religion is guaranteed by the Constitution and is under public protection. [...]

ARTICLE 137

There is no state church. [...]

Section IV: Education and the Schools

ARTICLE 142

Art, science, and the teaching thereof are free. [...]

ARTICLE 143

The education of the young is to be provided for by means of public institutions. [...]

ARTICLE 144

The entire school system is under the supervision of the state. [...]

ARTICLE 145

Attendance at school is compulsory. [...]

Section V: Economic Life

ARTICLE 151

The regulation of economic life must be compatible with the principles of justice, with the aim of attaining human conditions of existence for all. Within these limits the economic liberty of the individual is assured. [...]

ARTICLE 152

Freedom of contract prevails in accordance with the laws. [...]

ARTICLE 153

The right of private property is guaranteed by the Constitution. Expropriation of property may only take place [...] by due process of law. [...]

ARTICLE 159

Freedom of association for the preservation and promotion of labor and economic conditions is guaranteed to everyone and to all vocations. All agreements and measures attempting to restrict or restrain this freedom are unlawful.

[...]

ARTICLE 161

[...] The Reich shall organize a comprehensive system of [social] insurance.

[...]

ARTICLE 165

Workers and employees are called upon to cooperate, on an equal footing, with employers in the regulation of wages and of the conditions of labor, as well as in the general development of the productive forces. [...]

Concluding Provisions

[...]

ARTICLE 181

The German people have passed and adopted this Constitution through their National Assembly. It comes into force with the date of its proclamation.

Schwarzburg, August 11, 1919.

The Reich President

EBERT

The Reich Cabinet

BAUER

ERZBERGER HERMANN MÜLLER DR. DAVID

NOSKE SCHMIDT

SCHLICKE GIESBERTS DR. BAYER

DR. BELL

NOTES

[1] * Amended by law of March 24, 1921, to “every 700,000 inhabitants.”

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