

## The Basic Law of the FRG (23 May 1949)

**Caption:** The Basic Law of the Federal Republic of Germany (FRG) is signed in Bonn on 23 May 1949.

**Source:** Archives Nationales du Luxembourg, Luxembourg. Deuxième Guerre mondiale. Question allemande. Loi fondamentale de l'Allemagne 1949, AE 4191.

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## Basic Law of the Federal Republic of Germany (23 May 1949)

Conscious of its responsibility before God and mankind, filled with the resolve to preserve its national and political unity and to serve world peace as an equal partner in a united Europe, the German people in the Laender Baden, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern has, by virtue of its constituent power, enacted this Basic Law of the Federal Republic of Germany to give a new order to political life for a transitional period.

It acted also on behalf of those Germans to whom participation was denied.

The entire German people is called upon to accomplish, by free self-determination, the unity and freedom of Germany.

### I BASIC RIGHTS

#### Article 1

- (1) The dignity of man shall be inviolable. To respect and protect it shall be the duty of all state authority.
- (2) The German people therefore acknowledges inviolable and inalienable human rights as the basis of every human community, of peace and of justice in the world.
- (3) The following basic rights shall be binding as directly valid law on legislation, administration and judiciary.

#### Article 2

- (1) Everyone shall have the right to the free development of his personality, insofar as he does not infringe the rights of others or offend against the constitutional order or the moral code.
- (2) Everyone shall have the right to life and physical inviolability. The freedom of the individual shall be inviolable. These rights may be interfered with only on the basis of a law.

#### Article 3

- (1) All men shall be equal before the law.
- (2) Men and women shall have equal rights.
- (3) No one may be prejudiced or privileged because of his sex, descent, race, language, homeland and origin, faith or his religious and political opinions.

#### Article 4

- (1) Freedom of faith and conscience and freedom of religious and ideological (weltanschauliche) profession shall be inviolable.
- (2) Undisturbed practice of religion shall be guaranteed.
- (3) No one may be compelled against his conscience to perform war service as a combatant. Details shall be regulated by a federal law.

#### Article 5

(1) Everyone shall have the right freely to express and to disseminate his opinion through speech, writing and illustration and, without hindrance, to instruct himself from generally accessible sources. Freedom of the press and freedom of reporting by radio and motion pictures shall be guaranteed. There shall be no censorship.

(2) These rights shall be limited by the provisions of the general laws, the legal regulations for the protection of juveniles and by the right of personal honour.

(3) Art and science, research and teaching shall be free. Freedom of teaching shall not absolve from loyalty to the constitution.

#### **Article 6**

(1) Marriage and family shall be under the special protection of the state.

(2) The care and upbringing of children shall be the natural right of parents and the supreme duty incumbent upon them. The state shall watch over their activity.

(3) Children may be separated from the family against the will of those entitled to bring them up only on a legal basis if those so entitled fail to do their duty or if, on other grounds, a danger of the children being neglected arises.

(4) Every mother shall have a claim to the protection and care of the community.

(5) Illegitimate children shall, through legislation, be given the same conditions for their physical and spiritual development and their position in society as legitimate children.

#### **Article 7**

(1) The entire educational system shall be under the supervision of the state.

(2) Those entitled to bring up the child shall have the right to decide whether it shall receive religious instruction.

(3) Religious instruction shall form part of the curriculum in the state schools with the exception of non-confessional schools. Religious instruction shall, without prejudice to the state's right of supervision, be given according to the principles of the religious societies. No teacher may be obliged against his will to give religious instruction.

(4) The right to establish private schools shall be guaranteed. Private schools as substitute for state schools shall require the sanction of the state and shall be subject to Land legislation. The sanction must be given if the private schools, in their educational aims and facilities, as well as in the scholarly training of their teaching personnel, are not inferior to the state schools and if a separation of the pupils according to the means of the parents is not encouraged. The sanction must be withheld if the economic and legal teaching personnel is not sufficiently assured.

(5) A private elementary school shall be permitted only if the educational administration recognizes a specific pedagogic interest or, at the request of those entitled to bring up children, if it is to be established as a general community school (Gemeinschaftsschule), as a confessional or ideological school or if a state elementary school of this type does not exist in the Gemeinde.

(6) Preparatory schools shall remain abolished.

#### **Article 8**

(1) All Germans shall have the right, without prior notification or permission, to assemble peacefully and unarmed.

(2) For open air meetings this right may be restricted by legislation or on the basis of a law.

#### **Article 9**

(1) All Germans shall have the right to form associations and societies.

(2) Associations, the objects or activities of which conflict with the criminal laws or which are directed against the constitutional order or the concept of international understanding, shall be prohibited.

(3) The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to everyone and to all professions. Agreements which seek to restrict or hinder this right shall be null and void; measures directed to this end shall be illegal.

#### **Article 10**

Secrecy of the mail as well as secrecy of the post and telecommunications shall be inviolable. Restrictions may be ordered only on the basis of a law.

#### **Article 11**

(1) All Germans shall enjoy freedom of movement throughout the federal territory.

(2) This right may be restricted only by legislation and only for the cases in which an adequate basis of existence is absent and, as a result, particular burdens would arise for the general public or in which it is necessary for the protection of juveniles from neglect, for combating the danger of epidemics or in order to prevent criminal acts.

#### **Article 12**

(1) All Germans shall have the right freely to choose their occupation, place of work and place of training. The practice of an occupation may be regulated by legislation.

(2) No one may be compelled to perform a particular kind of work except within the framework of an established general compulsory public service equally applicable to everybody.

(3) Forced labour shall be admissible only in the event of imprisonment ordered by a court.

#### **Article 13**

(1) The dwelling shall be inviolable.

(2) Searches may be ordered only by a judge or in the event of imminent danger by other authorities provided by law and may be carried out only in the form prescribed therein.

(3) Interventions and restrictions may otherwise be undertaken only to avert a common danger or mortal danger to individuals and, on the basis of a law, also to prevent imminent danger to public safety and order, especially for the relief of the housing shortage, combating the danger of epidemics or protecting juveniles exposed to dangers.

#### **Article 14**

(1) Property and the right of inheritance shall be guaranteed. The contents and limitations shall be

determined by legislation.

(2) Property shall involve obligations. Its use shall simultaneously serve the general welfare.

(3) Expropriation shall be admissible only for the wellbeing of the general public. It may be effected only by legislation or on the basis of a law which shall regulate the nature and extent of compensation. The compensation shall be determined after just consideration of the interests of the general public and the participants. Regarding the extent of compensation, appeal may be made to the ordinary courts in case of dispute.

#### **Article 15**

Land and landed property, natural resources and means of production may, for the purpose of socialization, be transferred to public ownership or other forms of publicly controlled economy by way of a law which shall regulate the nature and extent of compensation. For the compensation, Article 14, paragraph (3), sentences 3 and 4, shall apply appropriately.

#### **Article 16**

(1) No one may be deprived of his German citizenship. The loss of citizenship may occur only on the basis of a law and, against the will of the person concerned, only if the person concerned is not rendered stateless thereby.

(2) No German may be extradited to a foreign country. The politically persecuted shall enjoy the right of asylum.

#### **Article 17**

Everyone shall have the right, individually or jointly with others, to address written requests or complaints to the competent authorities and to the popular representative bodies.

#### **Article 18**

Whoever abuses the freedom of expression of opinion, in particular the freedom of the press (Article 5, paragraph (1)), the freedom of teaching (Article 5, paragraph (3)), the freedom of assembly (Article 8), the freedom of association (Article 9), the secrecy of mail, post and telecommunications (Article 10), property (Article 14), or the right of asylum (Article 16, paragraph (2)), an order to attack the free, democratic basic order, shall forfeit these basic rights. The forfeiture and its extent shall be pronounced by the Federal Constitutional Court.

#### **Article 19**

(1) Insofar as according to this Basic law a basic right may be restricted by legislation or on the basis of a law, the law must apply in general and not solely to the individual case. Furthermore, the law must name the basic right, indicating the Article.

(2) In no case may a basic right be affected in its basic content.

(3) The basic rights shall also apply to juridical persons within the country insofar as, according to their nature, they may be applied to such persons.

(4) Should any person's rights be infringed by public authority, he may appeal to the courts. Insofar as another authority is not competent, the appeal shall go to the ordinary courts.

## **II THE FEDERATION AND THE LAENDER**

**Article 20**

- (1) The Federal Republic of Germany is a democratic and social federal state.
- (2) All state authority emanates from the people. It shall be exercised by the people in elections and plebiscites and by means of separate legislative, executive and judicial organs.
- (3) Legislation shall be limited by the constitution, the executive and the administration of justice by legislation and the law.

**Article 21**

- (1) The parties shall participate in forming the political will of the people. They can be freely formed. Their internal organization must conform to democratic principles. They just publicly account for the sources of their funds.
- (2) Parties which, according to their aims and the behavior of their members, seek to impair or abolish the free and democratic basic order or to jeopardize the existence of the Federal Republic of Germany, shall be unconstitutional. The Federal Constitutional Court shall decide on the question of unconstitutionality.
- (3) Details shall be regulated by federal legislation.

**Article 22**

The federal flag shall be black-red-gold.

**Article 23**

For the time being, this Basic Law shall apply in the territory of the Laender Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern. It shall be put into force for other parts of Germany on their accession.

**Article 24**

- (1) The Federation may, by legislation, transfer sovereign powers to international institutions.
- (2) In order to preserve peace, the Federation may join a system of mutual collective security; in doing so it will consent to those limitations of its sovereign powers which will bring about and secure a peaceful and lasting order in Europe and among the nations of the world.
- (3) For the settlement of international disputes, the Federation will join a general, comprehensive, obligatory system of international arbitration.

**Article 25**

The general rules of international law shall form part of federal law. They shall take precedence over the laws and create rights and duties directly for the inhabitants of the federal territory.

**Article 26**

- (1) Activities tending to disturb or undertaken with the intention of disturbing the peaceful relations between nations, and especially preparing for aggressive war, shall be unconstitutional. They shall be made subject to punishment.

(2) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details shall be regulated by a federal law.

#### **Article 27**

All German merchantmen shall form a unified merchant marine.

#### **Article 28**

(1) The constitutional order in the Laender must conform to the principles of the republican, democratic and social state based on the rule of law (Rechtsstaat) within the meaning of this Basic Law. In the Laender, Kreise and Gemeinden the people must have a representative assembly resulting from universal, direct, free, equal and secret elections. In Gemeinden, the Parish Meeting may take the place of an elected body.

(2) The Gemeinden must be guaranteed the right to regulate under their own responsibility all the affairs of the local community in accordance with the laws. The Gemeindeverbände also shall have the right of self-government within the limits of their legal sphere of functions and in accordance with the laws.

(3) The Federation shall guarantee that the constitutional order of the Laender shall correspond to the basic rights and the provisions of paragraphs (1) and (2).

#### **Article 29**

(1) The federal territory shall be reorganized by a federal law with due regard to regional unity, historical and cultural connections, economic expediency and social structure. The reorganization shall create Laender which by their size and potentiality are able to fulfil efficiently the functions incumbent upon them.

(2) In areas which, in the reorganization of Laender after 8 May 1945, joined another Land without plebiscite, a certain change in the decision made concerning this subject may be demanded by popular initiative within one year after the coming into force of the Basic Law. The popular initiative shall require the consent of one-tenth of the population qualified to vote in Landtag elections. Should the popular initiative take place, the Federal Government must, in the draft law regarding the reorganization, include a provision determining to which Land the area concerned shall belong.

(3) After adoption of the law, in each area which it is intended should join another Land, that part of the law which concerns this area must be submitted to a referendum. If a popular initiative takes place in accordance with paragraph (2), a referendum must always be carried out in the area concerned.

(4) Insofar as thereby the law is rejected at least in one area, it must be reintroduced in the Bundestag. After re-enactment, it shall require accordingly acceptance by referendum in the entire federal territory.

(5) In a referendum, the majority of the votes cast shall decide.

(6) The procedure shall be regulated by a federal law. The reorganization shall be regulated before the expiry of three years after promulgation of the Basic Law and, should it be necessary in consequence of the accession of another part of Germany, within two years after such accession.

(7) The procedure regarding any other change in the existing territory of the Laender shall be regulated by a federal law, which shall require the approval of the Bundesrat and of the majority of the members of the Bundestag.

#### **Article 30**

The exercise of the powers of the state and the performance of state functions shall be the concern of the

Laender, insofar as this Basic Law does not otherwise prescribe or permit.

### **Article 31**

Federal law shall supersede Land law.

### **Article 32**

- (1) The maintenance of relations with foreign states shall be the affair of the Federation.
- (2) Before the conclusion of a treaty affecting the special conditions of a Land, the Land must be consulted sufficiently early.
- (3) Insofar as the Laender are competent to legislate, they may, with the approval of the Federal Government, conclude treaties with foreign states.

### **Article 33**

- (1) Every German shall have in each Land the same civil (staatsbürgerliche) rights and duties.
- (2) Every German shall have equal access to any public office in accordance with his suitability, ability and professional achievements.
- (3) Enjoyment of municipal and national civil (bürgerliche und staatsbürgerliche) rights, access to public offices, as well as the rights acquired in the public service, shall be independent of religious confession. No one may be prejudiced on account of his adherence or non-adherence to a confession or ideology (Weltanschauung).
- (4) The exercise of state authority (hoheitsrechtliche Befugnisse) shall normally be assigned as permanent functions to members of the public service who are in a status of service and loyalty under public law.
- (5) Law regarding the public service shall be regulated with due regard to the established principles concerning the legal status of professional officials (Berufsbeamtentum).

### **Article 34**

If any person, in exercising the duties of a public office entrusted to him, violates his official obligation towards a third party, liability shall in principle rest with the state or his employing authority. In the case of wilful intent or gross negligence, the right of recourse shall be reserved. In respect to the claim for damages and in respect to the right of recourse, appeal to the ordinary courts must not be excluded.

### **Article 35**

All federal and Land authorities shall render each other mutual legal and official assistance.

### **Article 36**

In the Highest federal authorities civil servants (Beamte) from all Laender shall be employed in equitable ratio. Persons employed in the other federal offices shall normally be selected from the Land in which they are employed.

### **Article 37**

- (1) If a Land fails to fulfil its obligations towards the Federation under the Basic Law or any other federal law, the Federal Government may, with the approval of the Bundesrat, take the necessary measures to force



the Land by way of federal compulsion to fulfil its duties.

(2) In order to carry out federal compulsion, the Federal Government or its commissioner shall have the right to give orders to all Laender and their authorities.

### **III THE BUNDESTAG**

#### **Article 38**

(1) The deputies of the German Bundestag shall be elected by the people in universal, free, equal, direct and secret elections. They shall be representatives of the whole people, not bound to orders and instructions and subject only to their conscience.

(2) Any person who has reached the age of 21 years shall be eligible to vote and any person who has reached the age of 25 years shall be eligible for election.

(3) Details shall be determined by a federal law.

#### **Article 39**

(1) The Bundestag shall be elected for a term of four years. Its electoral period shall end four years after its first assembly or with its dissolution. The new election shall take place in the last three months of the electoral period; in the case of its dissolution, at the latest after 60 days.

(2) The Bundestag shall meet not later than thirty days after the election, nevertheless not before the end of the electoral period of the previous Bundestag.

(3) The Bundestag shall determine the closure and resumption of its sessions. The President of the Bundestag may convene it at an earlier date. He shall be obliged to do so if one-third of the members, the Federal President or the Federal Chancellor so demand.

#### **Article 40**

(1) The Bundestag shall elect its President, his deputies and its clerks. It shall draw up its Standing Orders (Rules of Procedure).

(2) The President shall have charge of, and exercise police power in, the Bundestag building. No search or seizure may take place without his permission in the precincts of the Bundestag.

#### **Article 41**

(1) The review of elections shall be the responsibility of the Bundestag. It shall decide also whether a deputy has lost his membership in the Bundestag.

(2) An appeal to the Federal Constitutional Court against a decision of the Bundestag shall be admissible.

(3) Details shall be regulated by a federal law.

#### **Article 42**

(1) Meetings of the Bundestag shall be public. Upon a motion of one-tenth of its members or upon a motion of the Federal Government the public may, by a two-thirds majority, be excluded. A decision on the motion will be made in a closed meeting.

(2) Decisions of the Bundestag shall require the majority of votes cast insofar as the Basic Law does not

determine otherwise. Standing Orders (Rules of Procedure) may admit exceptions in the case of elections to be held by the Bundestag.

(3) Accurate reports of the public meetings of the Bundestag and of its committees shall be privileged.

#### **Article 43**

(1) The Bundestag and its committees may demand the presence of any member of the Federal Government.

(2) The members of the Bundesrat and of the Federal Government as well as the persons commissioned by them shall have access to all meetings of the Bundestag and its committees. They must be heard at any time.

#### **Article 44**

(1) The Bundestag shall have the right and, upon the motion of one-fourth of its members, the obligation to set up an investigating committee, which shall take the necessary evidence in public proceedings. The public may be excluded.

(2) The provisions relating to criminal procedure shall apply appropriately to the investigations. Secrecy of the mail, post and telecommunications shall remain unaffected.

(3) The courts and administrative authorities shall be obliged to provide legal and official assistance.

(4) The decisions of the investigating committees shall not be subject to judicial review. The courts shall be free to evaluate and judge the facts on which the investigation is based.

#### **Article 45**

(1) The Bundestag shall appoint a Standing Committee which shall safeguard the rights of the Bundestag vis-à-vis the Federal Government in the interval between two electoral periods. The Standing Committee shall also have the rights of an investigating committee.

(2) Wider powers, in particular the right to legislate, to elect the Federal Chancellor and to impeach the Federal President, shall not be within the province of the Standing Committee.

#### **Article 46**

(1) A deputy may at no time be subject to legal or disciplinary action or otherwise be called to account outside the Bundestag because of his vote or any utterance in the Bundestag or in one of its committees. This shall not apply in the case of defamatory insults.

(2) A deputy may be called to account or arrested for a punishable offence only with the permission of the Bundestag, unless he be apprehended while committing the offence or in the course of the following day.

(3) Furthermore, the permission of the Bundestag shall be required in respect of any other restriction of the personal freedom of a deputy or for the initiating of proceedings against a deputy in accordance with Article 18.

(4) Any criminal proceedings and any proceedings in accordance with Article 18 against a deputy, any detention and any other restriction of his personal freedom shall be suspended upon the demand of the Bundestag.

#### **Article 47**

Deputies shall be entitled to refuse to give evidence concerning persons who have entrusted facts to them in

their capacity as deputies or to whom they in this capacity have entrusted facts, as well as concerning these facts themselves. Insofar as this right of refusal to give evidence extends, the seizure of documents shall be inadmissible.

#### **Article 48**

(1) Any person seeking election to the Bundestag shall have a claim to the leave necessary for his election campaign.

(2) No one may be prevented from assuming or exercising the office of a deputy. Notice of dismissal or dismissal for this reason shall be inadmissible.

(3) Deputies shall have a claim to adequate remuneration, which shall ensure their independence. They shall have the right to free travel in all publicly owned transport. Details shall be regulated by a federal law.

#### **Article 49**

Articles 46, 47 and 48, paragraphs (2) and (3) shall apply to the members of the Praesidium and the Standing Committee as well as to their chief deputies also in the interval between two electoral periods.

### **IV THE BUNDESRAT**

#### **Article 50**

The Laender shall participate through the medium of the Bundesrat in the legislation and the administration of the Federation.

#### **Article 51**

(1) The Bundesrat shall consist of members of the Governments of the Laender which shall appoint and recall them. They may be represented by other members of their Governments.

(2) Each Land shall have at least three votes; Laender with more than two million inhabitants shall have four, Laender with more than six million inhabitants shall have five votes.

(3) Every Land may delegate as many members as it has votes. The votes of each Land may be given only as a block vote and only by members present or their representatives.

#### **Article 52**

(1) The Bundesrat shall elect its President for one year.

(2) The President shall convene the Bundesrat. He must convene it if the representatives of at least two Laender or the Federal Government so demand.

(3) The Bundesrat shall take its decisions with at least the majority of its votes. It shall draw up its Standing Orders (Rules of Procedure). It shall meet in public. The public may be excluded.

(4) Other members or representatives of the Governments of the Laender may belong to the committees of the Bundesrat.

#### **Article 53**

The members of the Federal Government shall have the right, and on demand the obligation, to participate in the debates of the Bundesrat and its committees. They must be heard at any time. The Bundesrat must be

kept currently informed by the Federal Government on the conduct of federal affairs.

## **V THE FEDERAL PRESIDENT**

### **Article 54**

(1) The Federal President shall be elected, without discussion, by the Federal Convention. Every German who is eligible to vote in elections for the Bundestag and has reached the age of 40 years shall be eligible for election.

(2) The term of office of the Federal President shall be five years. Immediate re-election shall be admissible only once.

(3) The Federal Convention shall consist of the members of the Bundestag and an equal number of members elected by the popular representative bodies of the Laender according to the principles of proportional representation.

(4) The Federal Convention shall meet not later than thirty days before the expiry of the term of office of the Federal President, in the case of premature termination not later than thirty days after this date. It shall be convened by the President of the Bundestag.

(5) After the expiry of the electoral period, the time limit of paragraph (4), sentence 1, shall begin with the first meeting of the Bundestag.

(6) The person who has received the votes of the majority of the members of the Federal Convention shall be elected. If such majority is not obtained by any candidate in two ballots, the person who receives most votes in a further ballot shall be elected.

(7) Details shall be regulated by a federal law.

### **Article 55**

(1) The Federal President may be a member neither of the Government nor of a legislative body of the Federation or a Land.

(2) The Federal President may not hold any other salaried office, carry on a trade or practice a profession or belong to the management or supervisory board of a profit-making enterprise.

### **Article 56**

On assuming office, the Federal President shall take the following oath in the presence of the assembled members of the Bundestag and the Bundesrat:

"I swear that I shall dedicate my strength to the wellbeing of the German people, enhance what is to its advantage, ward off what might harm it, uphold and defend the Basic Law and the laws of the Federation, fulfil my duties conscientiously and do justice to every man. So help me God."

The oath may also be taken without the religious asseveration.

### **Article 57**

In the event of the inability of the Federal President to perform the duties of his office or in the event of a premature vacancy in the office, the functions of the Federal President shall be exercised by the President of the Bundesrat.

**Article 58**

Orders and instructions of the Federal President shall require for their validity the counter-signature of the Federal Chancellor or the competent Federal Minister. This shall not apply to the appointment and dismissal of the Federal Chancellor, the dissolution of the Bundestag in accordance with Article 63 and a request in accordance with Article 69, paragraph (3).

**Article 59**

(1) The Federal President shall represent the Federation in matters concerning international law. He shall conclude treaties with foreign states on behalf of the Federation. He shall accredit and receive the envoys.

(2) Treaties which regulate the political relations of the Federation or refer to matters of federal legislation shall require, in the form of a federal law, the approval or the participation of the corporations competent at the time for federal legislation. For administrative agreements the provisions concerning the federal administration shall apply appropriately.

**Article 60**

(1) The Federal President shall appoint and dismiss the federal judges and the federal officials unless otherwise determined by law.

(2) He shall exercise the right of pardon on behalf of the Federation in individual cases.

(3) He may delegate these powers to other authorities.

(4) Article 46, paragraphs (2) to (4), shall apply appropriately to the Federal President.

**Article 61**

(1) The Bundestag or the Bundesrat may impeach the Federal President before the Federal Constitutional Court on account of wilful violation of the Basic Law or any other federal law. The motion for impeachment must be brought in by at least one-quarter of the members of the Bundestag or one-quarter of the votes of the Bundesrat. The decision to impeach shall require the majority of two-thirds of the members of the Bundestag or of two-thirds of the votes of the Bundesrat. The prosecution shall be conducted by a person commissioned by the impeaching body.

(2) If the Federal Constitutional Court finds that the Federal President is guilty of a wilful violation of the Basic Law or of any other federal law, it may declare him to have forfeited his office. After the institution of impeachment proceedings, the Federal Constitutional Court may, by interim order, determine that the Federal President is prevented from performing the duties of his office.

**VI THE FEDERAL GOVERNMENT****Article 62**

The Federal Government shall consist of the Federal Chancellor and the Federal Ministers.

**Article 63**

(1) The Federal Chancellor shall be elected, without discussion, by the Bundestag on the proposal of the Federal President.

(2) The person who has received the votes of the majority of the members of the Bundestag shall be elected. He shall be appointed by the Federal President.

(3) If the person nominated is not elected, the Bundestag may, within fourteen days after the ballot, elect a Federal Chancellor by more than one half of its members.

(4) If the Federal Chancellor is not elected within this time limit a new ballot shall take place immediately, in which the person who receives most votes shall be elected. If the person elected receives the votes of the majority of the members of the Bundestag the Federal President must, within 7 days after the election, appoint him. If the person elected does not obtain this majority the Federal President must, within seven days, either appoint him or dissolve the Bundestag.

#### **Article 64**

(1) The Federal Ministers shall be appointed and dismissed by the Federal President upon the proposal of the Federal Chancellor.

(2) The Federal Chancellor and the Federal Ministers, on assuming office, shall take before the Bundestag the oath provided in Article 56.

#### **Article 65**

The Federal Chancellor shall determine and assume responsibility for general policy. Within the limits of this general policy, each Federal Minister shall direct his department individually and on his own responsibility. The Federal Government shall decide on differences of opinion between the Federal Ministers. The Federal Chancellor shall conduct its business in accordance with Standing Orders (Rules of Procedure) adopted by the Federal Government and approved by the Federal President.

#### **Article 66**

The Federal Chancellor and the Federal Ministers may not hold any other salaried office, carry on a trade or practice a profession or belong to the management or, without the approval of the Bundestag, to the supervisory board of a profit-making enterprise.

#### **Article 67**

(1) The Bundestag may express its lack of confidence in the Federal Chancellor only by electing a successor with the majority of its members and submitting a request to the Federal President for the dismissal of the Federal Chancellor. The Federal President must comply with the request and appoint the person elected.

(2) There must be an interval of 48 hours between the motion and the election.

#### **Article 68**

(1) If a motion of the Federal Chancellor to receive a vote of confidence does not obtain the support of the majority of the members of the Bundestag, the Federal President may, upon the proposal of the Federal Chancellor, dissolve the Bundestag within 21 days. The right of dissolution shall lapse as soon as the Bundestag, with the majority of its members, elects another Federal Chancellor.

(2) There must be an interval of 48 hours between the introduction of, and the vote on, the motion.

#### **Article 69**

(1) The Federal Chancellor shall appoint a Federal Minister as his deputy.

(2) The office of the Federal Chancellor or of a Federal Minister shall end in any case with the assembly of a new Bundestag, the office of a Federal Minister also with any other termination of the office of the Federal

Chancellor.

(3) At the request of the Federal President the Federal Chancellor, at the request of the Federal Chancellor or of the Federal President a Federal Minister, shall be obliged to carry out the duties of his office until the appointment of his successor.

## **VII THE LEGISLATION OF THE FEDERATION**

### **Article 70**

(i) The Laender shall have the right of legislation insofar as this Basic Law does not accord legislative powers to the Federation.

(2) The division of competence between the Federation and the Laender shall be determined in accordance with the provisions of this Basic Law concerning exclusive and concurrent legislation.

### **Article 71**

In the field of exclusive legislation of the Federation, the Laender shall have powers of legislation only if, and so far as, they are expressly so empowered in a federal law.

### **Article 72**

(1) In the field of concurrent legislation, the Laender shall have powers of legislation so long and so far as the Federation makes no use of its legislative right.

(2) The Federation shall have legislative right in this field insofar as a necessity for regulation by federal law exists because:

1. a matter cannot be effectively regulated by the legislation of individual Laender, or
2. the regulation of a matter by a Land law could prejudice the interests of other Laender or of the Laender as a whole, or
3. the preservation of legal or economic unity demands it, in particular the preservation of uniformity of living conditions extending beyond the territory of an individual Land.

### **Article 73**

The Federation shall have exclusive legislation on:

1. foreign affairs;
2. citizenship of the Federation;
3. freedom of movement, passports, immigration and emigration and extradition;
4. currency, money and coinage, weights and measures and regulation of time and calendar;
5. the unity of customs and commercial territory, commercial and navigation agreements, the freedom of traffic in goods and the traffic in goods and payments with foreign countries, including customs and frontier protection;
6. federal railways and air traffic;

7. post and telecommunications;
8. the legal status of persons in the employment of the Federation and of public law corporations under direct supervision of the Federal Government;
9. trade marks, copyright and publishing rights;
10. co-operation of the Federation and the Laender in the criminal police and in matters concerning the protection of the constitution, the establishment of a Federal Office of Criminal Police, as well as the combating of international crime;
11. statistics for federal purposes.

#### **Article 74**

Concurrent legislation shall extend to the following fields:

1. civil law, criminal law and execution of sentences, constitution of courts, court procedure, the bar, notaries and legal advice (Rechtsberatung);
2. census and registry matters;
3. associations and assemblies;
4. the right of sojourn and settlement of aliens;
5. the protection of German works of art against removal abroad;
6. matters relating to refugees and expellees;
7. public welfare;
8. citizenship of the Laender;
9. war damages and compensation (Wiedergutmachung);
10. provisions for war-disabled persons and surviving dependants, the welfare of former prisoners of war and the care of war graves;
11. law relating to the economy (mining, industry, power supply, crafts, trades, commerce, banking and stock exchanges, private insurances);
12. labour law, including the legal organization of enterprises, protection of workers and provision of employment, as well as social insurance including unemployment insurance;
13. the furtherance of scientific research;
14. the law regarding expropriation insofar as it is concerned with the matters enumerated in Articles 73 and 74;
15. transfer of land and landed property, natural resources and means of production to public ownership or to other forms of publicly controlled economy;
16. prevention of the abuse of economic power;



17. promotion of agricultural and forestry production, safeguarding of food supply, import and export of agricultural and forestry products, deep-sea and coastal fisheries and coastal preservation;
18. transactions in landed property, law concerning land and agricultural lease, housing, settlements and homesteads;
19. measures against epidemic and infectious diseases affecting humans and animals, the licensing for medical and other healing professions and the healing trade and traffic in drugs, medicines, narcotics and poisons;
20. protection relating to traffic in food and stimulants as well as in necessities of life, in fodder, in agricultural and forestry seeds and seedlings, and protection of trees and plants against diseases and pests;
21. ocean and coastal shipping and aids to navigation, inland shipping, meteorological service, ocean channels and inland waterways used for general traffic;
22. road traffic, motor transport and the construction and maintenance of highways used for long-distance transport;
23. railways other than federal railways, except mountain railways.

#### **Article 75**

The Federation shall have the right on the basis of Article 72 to issue general provisions concerning:

1. the legal status of persons employed in the public service of the Laender, Gemeinden and other public law corporations;
2. the general legal status of the press and motion pictures;
3. hunting, protection of nature and care of the countryside;
4. land distribution, regional planning and water conservation;
5. matters relating to registration and identity cards.

#### **Article 76**

- (1) Bills shall be introduced in the Bundestag by the Federal Government, by members of the Bundestag or by the Bundesrat.
- (2) Federal Government bills shall first be submitted to the Bundesrat. The Bundesrat shall have the right to give its opinion on these bills within three weeks.
- (3) Bundesrat bills shall be submitted to the Bundestag by the Federal Government, which must add a statement of its own views.

#### **Article 77**

- (1) Federal laws shall be passed by the Bundestag. After their adoption, they shall, without delay, be submitted to the Bundesrat by the President of the Bundestag.
- (2) The Bundesrat may, within two weeks of the receipt of the adopted bill, demand that a committee composed of members of the Bundestag and Bundesrat be convened to consider the bill jointly. The composition and the procedure of this committee shall be regulated by Standing Orders (Rules of

Procedure), which shall be agreed by the Bundestag and shall require the approval of the Bundesrat. The members of the Bundesrat deputed to this committee shall not be bound by instructions. If the approval of the Bundesrat is required for a law, both the Bundestag and the Federal Government may demand that it be convened. Should the committee propose an alteration of the adopted bill, the Bundestag must take a new decision.

(3) Insofar as the approval of the Bundesrat is not required for a law the Bundesrat may, if the procedure in accordance with paragraph (2) is completed, within one week veto a law passed by the Bundestag. The time limit for a veto shall begin in the case of paragraph (2), last sentence, with the receipt of the bill as re-adopted by the Bundestag, in all other cases with the conclusion of the procedure preceding the committee provided for in paragraph (2).

(4) Should the veto be adopted by the majority of the votes of the Bundesrat, it may be rejected by a decision of the minority of the members of the Bundestag. Should the Bundesrat have adopted the veto by a majority of at least two-thirds of its votes, the rejection by the Bundesrat shall require a majority of two-thirds, or at least the majority of the members of the Bundestag.

### **Article 78**

A law passed by the Bundestag shall be enacted if the Bundesrat approves, does not bring in a motion in accordance with Article 77, paragraph (2), does not impose a veto within the time limit of Article 77, paragraph (3), withdraws its veto or if the veto is overridden by the Bundestag.

### **Article 79**

(1) The Basic Law may be amended only by a law which expressly alters or adds to the text of the Basic Law.

(2) Such a law shall require the approval of two-thirds of the members of the Bundestag and two-thirds of the votes of the Bundesrat.

(3) An amendment to this Basic Law by which the organization of the Federation into Laender, the basic co-operation of the Laender in legislation or the basic principles laid down in Articles 1 and 20 are affected, shall be inadmissible.

### **Article 80**

(1) By means of a law the Federal Government, a Federal Minister or the Land Governments may be authorized to issue orders (Rechtsverordnungen). The contents, purpose and scope of such authorization shall be determined in the law. The legal basis must be cited in the order. If a law provides that an authorization may be further transferred, then the transfer of the authorization shall require an order (Rechtsverordnung).

(2) The approval of the Bundesrat shall be required, unless otherwise regulated by federal legislation, for orders (Rechtsverordnungen) of the Federal Government or a Federal Minister concerning principles and fees for the use of the facilities of the Federal railways and post and telecommunications, concerning the construction and operation of railways, as well as those issued on the basis of federal laws which require the approval of the Bundesrat or which are executed by the Laender on behalf of the Federation or as their own concern.

### **Article 81**

(1) Should, in the case of Article 68, the Bundestag not be dissolved, the Federal President may, on the request of the Federal Government with the approval of the Bundesrat, declare a state of legislative emergency for a bill, if the Bundestag rejects it despite the fact that the Federal Government has declared it

to be urgent. The same shall apply if a bill has been rejected despite the fact that the Federal Chancellor had combined with it the motion described in Article 68.

(2) If the Bundestag, after the state of legislative emergency has been declared, again rejects the bill or passes it in a version stated by the Federal Government to be unacceptable, the bill shall be deemed adopted insofar as the Bundesrat approves it. The same shall apply if the bill has not been passed by the Bundestag within four weeks after its re-submission.

(3) During the term of office of a Federal Chancellor, any other bill rejected by the Bundestag may be passed within a period of six months after the initial declaration of a state of legislative emergency in accordance with paragraphs (1) and (2). After expiry of the period, a further declaration of a state of legislative emergency shall be inadmissible during the term of office of the same Federal Chancellor.

(4) The Basic Law may neither be amended nor wholly or partially repealed or suspended by a law enacted in accordance with paragraph (2).

## **Article 82**

(1) Laws enacted according to the provisions of this Basic Law shall be engrossed by the Federal President with countersignature and published in the Federal Legal Gazette. Orders (Rechtsverordnungen) shall be signed by the issuing authority and, unless otherwise regulated by law, published in the Federal Legal Gazette.

(2) Each law and each order (Rechtsverordnung) shall specify the date of its coming into force. In the absence of such a provision, they shall come into force on the fourteenth day after the end of the day on which the Federal Legal Gazette has been issued.

## **VIII THE EXECUTION OF FEDERAL LAWS AND THE FEDERAL ADMINISTRATION**

### **Article 83**

The Laender shall execute the federal laws as their own concern insofar as this Basic Law does not otherwise determine or permit.

### **Article 84**

(1) If the Laender execute the federal laws as their own concern they shall regulate the establishment of the authorities and the administrative procedure insofar as federal laws approved by the Bundesrat do not otherwise determine.

(2) The Federal Government may, with the approval of the Bundesrat, issue general administrative provisions.

(3) The Federal Government shall exercise supervision to ensure that the Laender execute the federal laws in accordance with valid law. For this purpose the Federal Government may send commissioners to the highest Land authorities and, with their approval and, in the case of this approval being refused with the approval of the Bundesrat, also to the subordinate authorities.

(4) Should deficiencies established by the Federal Government in the execution of federal laws in the Laender not be overcome then, on application by the Federal Government or the Land concerned, the Bundesrat shall decide whether the Land has infringed law. Against the decision of the Bundesrat, appeal may be made to the Federal Constitutional Court.

(5) For the execution of federal laws the Federal Government may, by federal legislation which shall require the approval of the Bundesrat, be granted in special cases the power to give individual instructions. They

shall, except where the Federal Government considers the case urgent, be directed to the highest Land authorities.

#### **Article 85**

(1) Where the execution of federal laws is delegated to the Laender by the Federation, the establishment of the authorities shall remain a concern of the Laender insofar as Federal legislation approved by the Bundesrat does not determine otherwise.

(2) The Federal Government may issue, with the approval of the Bundesrat, general administrative provisions. It may regulate the uniform training of officials and employees. The heads of the authorities at middle level shall be appointed with its agreement.

(3) The Land authorities shall be subject to the instructions of the highest competent federal authorities. Except where the Federal Government considers it urgent, the instructions shall be directed to the highest Land authorities. Execution of the instructions shall be ensured by the highest Land authority.

(4) Federal supervision shall extend to the legality and suitability of the manner of execution. The Federal Government may for this purpose demand submission of reports and documents and send commissioners to all authorities.

#### **Article 86**

If the Federation executes the laws by direct federal administration or by public law corporations or institutions directly supervised by the Federation, the Federal Government shall, insofar as the law does not prescribe details, issue general administrative provisions. It shall regulate, insofar as it is not otherwise determined by the law, the establishment of the authorities.

#### **Article 87**

(1) The foreign service, the federal finance administration, the federal railways, the federal postal services and, in accordance with the provisions of Article 89, the administration of the federal waterways and shipping, shall be conducted by a direct federal administration with its own lower level administrative offices. Federal frontier protection authorities and central offices for police information and communications, for the compilation of data for purposes concerning the protection of the constitution and for the criminal police may be established by federal legislation.

(2) Public law corporations directly supervised by the Federation shall be those carriers of social insurance whose sphere of competence extends beyond the territory of a Land.

(3) In addition, independent central federal authorities and new public law corporations and institutions directly supervised by the Federation may be established by federal legislation for matters on which the Federation has the power to legislate. Should the Federation acquire new functions in matters for which it has legislative competence, federal authorities at middle and lower levels may in case of urgent need be established with the approval of the Bundesrat and of the majority of the Bundestag.

#### **Article 88**

The Federation shall establish a bank of currency and issue as federal bank.

#### **Article 89**

(1) The Federation shall be the owner of the former Reich waterways.

(2) The Federation shall administer the federal waterways through its own authorities. It shall exercise those

state functions relating to inland shipping extending beyond the territory of a Land and the functions of ocean-going shipping which are conferred on it by legislation. The Federation may delegate the administration of federal waterways, insofar as they lie within the territory of a Land, to this Land, upon request, to act on its behalf (Auftragsverwaltung). Should a waterway touch the territories of several Laender, the Federation may delegate (the administration) to the Land agreed upon by the Laender concerned.

#### **Article 90**

- (1) The Federation shall be the owner of the former Reich Autobahnen and Reich highways.
- (2) The Laender, or such self-governing corporations under public law as are competent in accordance with Land law, shall administer the federal Autobahnen and other federal highways used for long-distance traffic on behalf of the Federation.
- (3) At the request of a Land, the Federation may take over into direct federal administration federal Autobahnen and other federal highways used for long-distance traffic, insofar as they lie within the territory of this Land.

#### **Article 91**

- (1) In order to avert an imminent danger to the existence or the free democratic basic order of the Federation or a Land, a Land may call in the police forces of other Laender.
- (2) If the Land in which the danger is imminent is not itself prepared or in a position to combat the danger, the Federal Government may place the police in that Land or the police forces of other Laender under its instructions. The order (Anordnung) shall be rescinded after the danger has been overcome, otherwise at any time on demand from the Bundesrat.

### **IX THE ADMINISTRATION OF JUSTICE**

#### **Article 92**

Judicial authority shall be invested in the judges; it shall be exercised by the Federal Constitutional Court, by the Supreme Federal Court, by the federal courts provided for in this Basic Law and by the courts of the Laender.

#### **Article 93**

- (1) The Federal Constitutional Court shall decide:
  1. on the interpretation of this Basic Law in the event of disputes concerning the extent of the rights and duties of the highest federal organ or of other participants accorded independent rights by this Basic Law or in the Standing Orders (Rules of Procedure) of the highest federal organ;
  2. in cases of differences of opinion or doubts on the formal and material compatibility of federal law or Land law with this Basic Law, on the compatibility of Land law with some other federal law, on the application of the Federal Government, of a Land Government or of one-third of the members of the Bundestag;
  3. in cases of differences of opinion on the rights and duties of the Federation and the Laender, particularly in the execution of federal law by the Laender, and in the exercise of federal supervision;
  4. on other public law disputes between the Federation and the Laender, between different Laender or within a Land, insofar as appeal to another court is not provided for;

5. in all other cases provided for in this Basic Law.

(2) Furthermore, the Federal Constitutional Court shall act in cases otherwise assigned to it by federal legislation.

#### **Article 94**

(1) The Federal Constitutional Court shall consist of federal judges and other members. The members of the federal Constitutional Court shall be elected half by the Bundestag and half by the Bundesrat. They may not belong to the Bundestag, the Bundesrat, the Federal Government or corresponding bodies of a Land.

(2) A federal law shall regulate its legal constitution and procedure and determine in which cases its decisions shall have the force of law.

#### **Article 95**

(1) To preserve the unity of federal law, a Supreme Federal Court shall be established.

(2) The Supreme Federal Court shall decide in cases where the decision is of fundamental importance for the uniformity of the administration of justice of the higher federal courts.

(3) The appointment of the judges of the Supreme Federal Court shall be decided jointly by the Federal Minister of Justice and a committee for the election of judges consisting of the Land Ministers of Justice and an equal number of members elected by the Bundestag.

(4) Otherwise the constitution of the Supreme Federal Court and its procedure shall be regulated by federal legislation.

#### **Article 96**

(1) Higher federal courts shall be established for the spheres of ordinary, administrative, finance, labour and social jurisdiction.

(2) Article 95, paragraph (3), shall apply to the judges of the higher federal courts with the proviso that the place of the Federal Minister of Justice and the Land Ministers of Justice be taken by the Ministers competent for the particular matter. Their conditions of service must be regulated by a special federal law.

(3) The Federation may establish federal disciplinary courts for disciplinary proceedings against federal officials and federal judges.

#### **Article 97**

(1) Judges shall be independent and subject only to the law.

(2) Judges who are principally, regularly and definitely employed as such may, against their will, be dismissed before the expiry of their term of office, or permanently or temporarily suspended from office or transferred to another office or be placed on the retired list only through the decision of a court and only on the grounds and in the forms prescribed by legislation. Legislation may set an age limit at which judges who have been appointed for life shall retire. In the case of alterations in the structure of the courts or their districts, judges may be transferred to another court or suspended from office. They must, however, retain their full salary.

#### **Article 98**

- (1) The legal status of the federal judges must be regulated by a special federal law.
- (2) If a federal judge, in his official or unofficial capacity, infringes the principles of the Basic Law or the constitutional order of a Land, the Federal Constitutional Court may on the application of the Bundestag and with a two-third majority, order that the judge be transferred to another office or placed on the retired list. In the case of wilful infringement dismissal may also be decided upon.
- (3) The legal status of the judges in the Laender must be regulated by special Land legislation. The Federation may issue general provisions.
- (4) The Laender may determine that the Land Minister of Justice shall, together with a committee for the election of judges, decide on the appointment of judges in the Laender.
- (5) The Laender may make an appropriate regulation for Land judges in accordance with paragraph (2). Valid Land constitutional law shall remain unaffected. The Federal Constitutional Court shall decide in the case of impeachment of a judge.

#### **Article 99**

By Land legislation the decision on constitutional disputes within a Land may be assigned to the Federal Constitutional Court, and the decision of final instance on matters involving the application of Land law to the higher federal courts.

#### **Article 100**

- (1) If a court considers unconstitutional a law the validity of which is pertinent to its decision, proceedings must be stayed and, if a violation of a Land Constitution is involved, the decision of the Land court competent for constitutional disputes shall be obtained and, if a violation of this Basic Law is involved, the decision of the Federal Constitutional Court shall be obtained. This shall also apply if the violation of this Basic Law by Land law or the incompatibility of a Land law with a federal law is involved.
- (2) If in litigation it is doubtful whether a rule of international law forms part of federal law and whether it creates direct rights and duties for the individual (Article 25), the court shall obtain the decision of the Federal Constitutional Court.
- (3) If the court of a Land, in interpreting the Basic Law, intends to deviate from a decision of the Federal Constitutional Court or the constitutional court of another Land, the said constitutional court must obtain the decision of the Federal Constitutional Court. If, in interpreting other federal law, it intends to deviate from the decision of the Supreme Federal Court or a higher federal court, it must obtain the decision of the Supreme Federal Court.

#### **Article 101**

- (1) Extraordinary courts shall be inadmissible. No one may be prevented from appearing before his lawful judge.
- (2) Courts for special matters may be established only by law.

#### **Article 102**

The death sentence shall be abolished.

#### **Article 103**

- (1) Everyone brought before a court shall have a claim to proper legal hearing.

(2) An act may be punished only if it was punishable by law before the act was committed.

(3) No one may be punished more than once on account of the same act in pursuance of the general criminal laws.

#### **Article 104**

(1) The freedom of the individual may be restricted only on the basis of a formal law and only with due regard to the forms prescribed therein. Detained persons may be subjected neither to physical nor mental ill-treatment.

(2) Only the judge shall decide on the admissibility and continue duration of a deprivation of liberty. If such deprivation is not based on the order of a judge, a court decision must be obtained without delay. The police may, on its own authority, hold no one in custody beyond the end of the day following the arrest. Details shall be regulated by legislation.

(3) Any person temporarily detained on suspicion of having committed a punishable act must, at the latest on the day following the arrest, be brought before a judge who shall inform him of the reasons for the arrest, interrogate him and give him an opportunity to raise objections. Without delay, the judge must either issue a warrant of arrest, setting out the reasons therefore, or order his release.

(4) A relative of the person detained or a person enjoying his confidence must be notified forthwith of any judicial decision in respect of the ordering or the continued duration of a deprivation of liberty.

#### **X FINANCE**

##### **Article 105**

(1) The Federation shall have exclusive legislation on customs and financial monopolies.

(2) The Federation shall have concurrent legislation on:

1. excise taxes and taxes on transactions, with the exception of taxes with localized application, in particular the taxes on real estate acquisition, incremental value and on fire protection,

2. the taxes on income, property, inheritance and donations,

3. "Realsteuern" (taxes on real estate and on businesses) with the exception of the fixing of tax rates

if it makes a claim on the taxes in their entirety or in part to cover federal expenditures or if the conditions of Article 72, paragraph (2), apply.

(3) Federal legislation on taxes the yield of which accrues in entirety or in part to the Laender or the Gemeinden (Gemeindeverbände) shall require the approval of the Bundesrat.

##### **Article 106**

(1) Customs, the yield of monopolies, the excise taxes with the exception of the beer tax, the transportation tax, the turnover tax and property dues serving non-recurrent purposes shall accrue to the Federation.

(2) The beer tax, the taxes on transactions with the exception of the transportation tax and turnover tax, the income and corporation taxes, the property tax, the inheritance tax, the "Realsteuern" and the taxes with



localized application shall accrue to the Laender and, in accordance with Land legislation, to the Gemeinden (Gemeindeverbände).

(3) The Federation may, by means of a federal law which shall require the approval of the Bundesrat, make a claim to a part of the income and corporation taxes to cover its expenditures not covered by other revenues, in particular to cover grants which are to be made to Laender to meet expenditures in the fields of education, public health and welfare.

(4) In order to ensure the working efficiency also of the Laender with low revenues and to equalize the differing burden of expenditure of the Laender, the Federation may make grants and take the funds necessary for this purpose from specific taxes of those accruing to the Laender. A federal law, which shall require the approval of the Bundesrat, shall determine which taxes shall be utilized for this purpose and in what amounts and on what basis the grants shall be distributed among the Laender entitled to equalization; the grants must be handed directly to the Laender.

#### **Article 107**

The final distribution of the taxes subject to concurrent legislation between the Federation and the Laender shall be effected not later than 31 December 1952 and by means of a federal law which shall require the approval of the Bundesrat. This shall not apply to the "Realsteuern" and the taxes with localized application. In this, both Federation and Laender shall be given a legal claim to certain taxes or shares in taxes corresponding to their functions.

#### **Article 108**

(1) Customs, financial monopolies, the excise taxes subject to concurrent legislation, the transportation tax, the turnover tax and the nonrecurrent property dues shall be administered by federal finance authorities. The structure of these authorities and the procedure to be applied by them shall be regulated by federal legislation. The heads of the authorities at middle level shall be appointed by agreement with the Land Governments. The Federation may delegate the administration of the nonrecurrent property dues to the Land finance authorities to act on behalf of the Federation (Auftragsverwaltung).

(2) Insofar as the Federation makes a claim to a part of the income and corporation taxes it shall have the right to administer them. It may, however, delegate the administration to the Land finance authorities to act on behalf of the Federation.

(3) The remaining taxes shall be administered by Land finance authorities. The Federation may, by means of federal legislation which shall require the approval of the Bundesrat, regulate the structure of these authorities, the procedure to be applied by them and the uniform training of the officials. The heads of the authorities at middle level must be appointed by agreement with the Federal Government. The administration of the taxes accruing to the Gemeinden (Gemeindeverbände) may be transferred by the Laender in entirety or in part to the Gemeinden (Gemeindeverbände).

(4) Insofar as the taxes accrue to the Federation, the Land finance authorities shall act on behalf of the Federation. The Laender shall be liable with their revenues for a regular administration of these taxes; the Federal Minister of Finance may supervise the regular administration through federal plenipotentiaries who shall have the right to give instructions to the authorities at middle and lower level.

(5) Finance jurisdiction shall be uniformly regulated by federal legislation.

(6) The general administrative provisions shall be issued by the Federal Government and, insofar as the administration is incumbent upon the Land finance authorities, with the approval of the Bundesrat.

#### **Article 109**

The Federation and the Laender shall be self-supporting and independent of each other in their budget economy.

#### **Article 110**

(1) All revenues and expenditures of the Federation must be estimated for each fiscal year and included in the budget.

(2) The budget shall be established by law before the commencement of the fiscal year. Revenue and expenditure must be balanced. Expenditures shall as a rule be approved for one year; they may in special cases be approved for a longer period. Otherwise the federal budget law may contain no provisions which extend beyond the fiscal year or which do not concern the revenues and expenditures of the Federation or its administration.

(3) The assets and liabilities shall be indicated in an appendix to the budget.

(4) In the case of federal commercial enterprises, only the final result, and not the detailed revenues and expenditures, need be included in the budget.

#### **Article 111**

(1) If by the end of a fiscal year the budget for the following year has not been established by law, the Federal Government shall, until such a law comes into force, be empowered to effect such payments as are necessary:

(a) to maintain legally established institutions and to carry out legally determined measures;

(b) to meet legally established obligations of the Federation;

(c) to continue building projects, procurements and other services or to grant further subsidies for these purposes insofar as funds have already been approved by the budget of a previous year.

(2) Insofar as revenues from taxes, imports and other sources based on special legislation, or working capital reserves, do not cover the expenditures under paragraph (1), the Federal Government may realize by way of credits the funds necessary to conduct current operations up to one-fourth of the final sum contained in the previous budget.

#### **Article 112**

Expenditure exceeding the budget and any extraordinary expenditures shall require the approval of the Federal Minister of Finance. They may only be given in case of an unforeseen and irrefutable necessity.

#### **Article 113**

Decisions of the Bundestag and Bundesrat which increase the budget expenditure proposed by the Federal Government or include, or imply for the future, new expenditure, shall require the approval of the Federal Government.

#### **Article 114**

The Federal Minister of Finance must present to the Bundestag and the Bundesrat an annual statement of all revenues and expenditures as well as of assets and liabilities. The audit thereof shall be carried out by an Audit Office (Rechnungshof) the members of which shall possess judicial independence. In order to secure a discharge for the Federal Government, the general statement of account and a survey of the assets and liabilities shall be submitted to the Bundestag and the Bundesrat in the course of the next fiscal year,

together with the observations of the Audit Office. The auditing of accounts shall be regulated by a federal law.

#### **Article 115**

By way of credits, funds may be obtained only in the case of extraordinary need and as a rule only for expenditure for productive purposes and only on the basis of a federal law. The granting of credits and provision of securities as a charge on the Federation, the effect of which extends beyond the fiscal year, may be undertaken only on the basis of a federal law. The amount of the credits or the extent of the obligation for which the Federation assumes liability must be determined in the law.

### **XI TRANSITIONAL AND CONCLUDING PROVISIONS**

#### **Article 116**

(1) Unless otherwise regulated by law, a German within the meaning of this Basic Law is a person who possesses German nationality or who has been accepted in the territory of the German Reich as at 31 December 1937 as a refugee or expellee of German stock or as the spouse or descendant of such person.

(2) Former German nationals who between 30 January 1933 and 8 May 1945 were deprived of their nationality for political, racial or religious reasons, and their descendants, shall be regranted citizenship on application. They shall not be considered to have lost citizenship insofar as they took up residence in Germany after 8 May 1945 and have not expressed a wish to the contrary.

#### **Article 117**

(1) Law which conflicts with Article 3, paragraph (2), shall remain in force until it is adjusted to this provision of the Basic Law, but not beyond 31 March 1953.

(2) Laws which restrict the right of freedom of movement in consideration of the present housing shortage shall remain in force until repealed by federal legislation.

#### **Article 118**

The reorganization of the territory comprising the Laender Baden, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern may be accomplished, by agreement between the Laender concerned, in a manner deviating from the provisions of Article 29. Should an agreement not be reached, the reorganization shall be regulated by federal legislation which must provide for a referendum.

#### **Article 119**

In matters relating to refugees and expellees, in particular their distribution to the Laender, the Federal Government may, with the approval of the Bundesrat, issue orders (Verordnungen) having the force of law pending a regulation by federal legislation. In special cases the Federal Government may be empowered to issue individual instructions. The instructions shall, except in case of imminent danger, be directed to the highest Land authorities.

#### **Article 120**

(1) The Federation shall bear the expenses for occupation costs and, in accordance with more detailed provisions by a federal law, the other internal and external war-induced burdens, and the grants towards the burdens of social insurance, including unemployment insurance and public assistance for the unemployed.

(2) The revenues shall pass to the Federation at the same time at which the Federation assumes the expenditure.

**Article 121**

The majority of the members of the Bundestag and of the Federal Convention within the meaning of this Basic Law shall be the majority of their statutory number of members.

**Article 122**

(1) As from the assembly of the Bundestag, laws shall be passed exclusively by the legislative authorities recognized in this Basic Law.

(2) With effect from this date, legislative bodies and bodies acting in an advisory capacity in respect of legislation, the competence of which ends in accordance with paragraph (1), shall be dissolved.

**Article 123**

(1) Law existing before the assembly of the Bundestag shall remain in force, insofar as it does not conflict with the Basic Law.

(2) The state treaties concluded by the German Reich concerning matters for which, according to this Basic Law, Land legislation is competent, shall remain in force if they are valid and continue to be valid according to general basic principles of law, while reserving all the rights and objections of those concerned, until new state treaties shall have been concluded by the authorities made competent to do so by this Basic Law or until they are otherwise terminated on the grounds of the provisions they contain.

**Article 124**

Law concerning matters within the exclusive legislative competence of the Federation shall become federal law within the area of its application.

**Article 125**

Law concerning matters of concurrent federal legislation shall become federal law within the area of its application.

1. insofar as it is uniformly valid within one or more zones of occupation,
2. insofar as it concerns law by which former Reich law has been amended since 8 May 1945.

**Article 126**

Divergences of opinion on the continued validity of law as federal law shall be decided by the Federal Constitutional Court.

**Article 127**

Within one year after promulgation of this Basic Law the Federal Government may, with the approval of the Governments of the Laender concerned, extend law of the Bizonal Economic Administration, insofar as it continues in force as federal law according to Articles 125 or 126, to the Laender Baden, Greater Berlin, Rhineland-Palatinate and Wuerttemberg-Hohenzollern.

**Article 128**

Insofar as in accordance with still valid law, powers to give instructions within the meaning of Article 84, paragraph (5), still exist, these shall remain in force pending some other legislative regulation.

**Article 129**

(1) Insofar as legal provisions which continue in force as federal law contain an authorization to issue orders (Rechtsverordnungen) or general administrative provisions and to perform administrative acts, this authorization shall pass to the authorities now competent for the subject matter. In doubtful cases the Federal Government shall decide by agreement with the Bundesrat; the decision must be published.

(2) Insofar as legal provisions which continue in force as Land law contain such an authorization, it shall be exercised by the authorities competent according to Land law.

(3) Insofar as legal provisions within the meaning of paragraphs (1) and (2) authorize the alteration or amplification or the issue of legal provisions instead of laws, these authorizations shall lapse.

(4) The provisions of paragraphs (1) and (2) shall apply appropriately insofar as legal provisions refer to regulations no longer valid or to institutions no longer in existence.

**Article 130**

(1) Administrative organs and other institutions serving the public administration or administration of justice, which are not based on Land law or treaties between Laender, as well as the amalgamated management of the South West German railways and the Administrative Council for the post and telecommunications service of the French Zone of Occupation, shall be under the Federal Government. The latter shall, with the approval of the Bundesrat, regulate the transfer, dissolution, or liquidation (of such bodies).

(2) The highest disciplinary authority for the personnel of these administrations and establishments shall be the competent Federal Minister.

(3) Public law corporations and institutions not directly supervised by a Land and not based on treaties between Laender, shall be under the supervision of the competent highest federal authority.

**Article 131**

The legal status of persons, including the refugees and expellees who were employed in the public service on 8 May 1945 and who have left service for reasons other than those based on civil service or tariff regulations, and who hitherto have not been employed or not in a position corresponding to their former one, shall be regulated by federal legislation. The same shall apply to persons, including the refugees and expellees who were entitled to a pension or other assistance on 8 May 1945, and who no longer receive such or something equivalent for reasons other than those based on civil service or tariff regulations. Without prejudice to other regulations by Land law, legal claims may not be raised until the federal law comes into force.

**Article 132**

(1) Officials (Beamte) and judges who, at the time this Basic Law comes into force, have been appointed for life may, within six months after the first meeting of the Bundestag, be placed on the retired list or waiting list or be transferred to another office with less remuneration, if they are personally or professionally unsuitable for their office. This provision shall apply appropriately also to employees (Angestellte) not subject to notice of dismissal. In the case of employees (Angestellte) whose conditions of service require notice of dismissal, notice exceeding that required by tariff regulations may be cancelled within the same period.

(2) The provisions shall not apply to members of the public service unaffected by the denazification and demilitarization laws or who are recognized victims of national socialism, insofar as there are no important

objections against such persons.

(3) Those affected by the above shall have recourse to the courts in accordance with Article 19, paragraph (4).

(4) Details shall be determined by an order (Verordnung) of the Federal Government, which shall require the approval of the Bundesrat.

### **Article 133**

The Federation shall succeed to the rights and obligations of the Bizonal Economic Administration.

### **Article 134**

(1) Reich property shall in principle become federal property.

(2) It shall, without compensation, be transferred to the authorities now competent to carry out the functions, insofar as it was originally defined mainly for administrative functions which according to this Basic Law are not administrative functions of the Federation, and to the Laender insofar as, according to its present, not solely temporary, use, it serves for administrative functions which according to this Basic Law are now to be fulfilled by the Laender. The Federation may also transfer other property to the Laender.

(3) Property which was placed at the disposal of the Reich by the Laender and Gemeinden (Gemeindeverbände) shall, without compensation, become once more the property of the Laender and Gemeinden (Gemeindeverbände), insofar as the Federation does not require it for its own administrative functions.

(4) Details shall be regulated by a federal law which shall require the approval of the Bundesrat.

### **Article 135**

(1) If, between 8 May 1945 and the coming into force of this Basic Law, a territory has changed from one Land to another, in this territory the property of the Land to which the territory belonged shall be transferred to the Land to which the territory now belongs.

(2) Insofar as it was originally destined mainly for administrative functions, or is at present, and not solely temporarily, mainly used for administrative functions, the property of Laender and other public law corporations and institutions no longer existing shall be transferred to the Land or public law corporation or institution now performing these functions.

(3) Real estate of Laender no longer existing, including appurtenances, shall, insofar as it does not already belong to the property within the meaning of paragraph (1), be transferred to the Land in the territory of which it is situated.

(4) Insofar as an overriding interest of the Federation or the particular interests of a territory require it, a regulation deviating from paragraphs (1) to (3) may be adopted by federal legislation.

(5) Otherwise the legal succession and the settlement (of property), insofar as it has not been effected by 1 January 1952 by agreement between the Laender or public law corporations or institutions concerned, shall be regulated by federal legislation which shall require the approval of the Bundesrat.

(6) Participations of the former Land Prussia in civil law enterprises shall pass to the Federation. Details shall be regulated by a federal law which may make provisions deviating from this.

(7) Insofar as property which, according to paragraphs (1) to (3), would accrue to a Land or a public law

corporation or institution, has been disposed of by the authority thereby authorized by means of a Land law, on the basis of a Land law or in some other way at the coming into force of the Basic Law, the transfer of property shall be considered as having been effected before the disposal.

#### **Article 136**

(1) The Bundesrat shall meet for the first time on the day of the first assembly of the Bundestag.

(2) Until the election of the first Federal President, his functions shall be exercised by the President of the Bundesrat. He shall not have the right to dissolve the Bundestag.

#### **Article 137**

(1) The eligibility for election of officials (Beamte), employees (Angestellte) of the public service and judges of the Federation, of the Laender and of the Gemeinden may be restricted by Legislation.

(2) For the election of the first Bundestag, of the first Federal Convention and of the first Federal President of the Federal Republic of Germany the Electoral Law to be adopted by the Parliamentary Council shall apply.

(3) The functions of the Federal Constitutional Court pursuant to Article 41, paragraph (2), shall be exercised, pending its establishment, by the German High Court for the Combined Economic Area which shall decide in accordance with its Standing Orders (Rules of Procedure).

#### **Article 138**

Changes in the existing organization of notaries in the Laender Baden, Bavaria, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern shall require the approval of the Governments of these Laender.

#### **Article 139**

The legal provisions enacted for the liberation of the German people from national socialism and militarism shall not be affected by the provisions of this Basic Law.

#### **Article 140**

The provisions of Articles 136, 137, 138, 139 and 141 of the German Constitution of 11 August 1919 shall be an integral part of this Basic Law.

#### **Article 141**

Article 7, paragraph (3), first sentence, shall not apply in a Land in which on 1 January 1949 another legal Land regulation existed.

#### **Article 142**

Without prejudice to Article 31, provisions of the Land Constitutions shall also remain in force, insofar as they conform to Articles 1 to 18.

#### **Article 143**

(1) Whoever by force or the threat of force changes the constitutional order of the Federation or of a Land, deprives the Federal President of the powers accorded to him by this Basic Law or who by force or the threat of danger compels him to exercise his powers in a specific manner or not at all, or prevents the exercise of his powers, or deprives the Federation or a Land of a territory belonging to them shall be condemned to

penal servitude for life or not less than 10 years.

(2) Whoever publicly incites to an action within the meaning of paragraph (1), or plots or otherwise arranges such an action in connivance with another person, shall be condemned to penal servitude up to 10 years.

(3) In less serious cases, a sentence of not less than two year's penal servitude in the cases provided for in paragraph (1), and of not less than one year's imprisonment in the cases provided for in paragraph (2), may be imposed.

(4) Whoever of his own free will gives up his activity or, in case of participation of several persons, prevents a conspiracy, may not be punished in accordance with the provisions of paragraphs (1) to (3).

(5) Insofar as the action is directed exclusively against the constitutional order of a Land, the highest court of the Land shall, in the absence of any other regulation in Land law, be competent to pass judgment. Otherwise the superior court (Oberlandesgericht), in the district of which the first Federal Government chooses its seat, shall be competent.

(6) The aforementioned provisions shall be valid pending another regulation by federal law.

#### **Article 144**

(1) This Basic Law shall require acceptance by the popular representative bodies in two-thirds of the German Laender in which it shall initially be valid.

(2) Insofar as restrictions are imposed on the application of the Basic Law to one of the Laender enumerated in Article 23, paragraph (1), or to a part of one of these Laender, that Land or a part of that Land shall have the right, in accordance with Article 38, to send representatives to the Bundestag and, in accordance with Article 50, to the Bundesrat.

#### **Article 145**

(1) The Parliamentary Council with the participation of the representatives of Greater Berlin shall in a public meeting confirm the adoption of this Basic Law, engross it and promulgate it.

(2) This Basic Law shall come into force at the end of the day of its promulgation.

(3) It shall be published in the Federal Legal Gazette.

#### **Article 146**

This Basic Law shall become invalid on the day when a constitution adopted in a free decision by the German people comes into force.