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Baden's Constitution of 1818

Historical

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Preamble

Carl, by the grace of God, Grand Duke of Baden, Duke of Zähringen, etc.

As we already repeatedly made known to our subjects in the year 1816, we want to give the Grand Duchy an Estates constitution. Therefore we fostered the desire and the hope that all the members of our federation would come to an agreement regarding this constitution, through the establishment of an unalterable and fundamental foundation, assured for all German people. Only through the further development of the established fundamental laws may a single State continue to create its own laws for its own particular needs, with continued consideration for existing relations.

Due, however, to the fact that even after the last vote regarding this matter during the federal assembly the point in time remains to be seen in which the creation of the Estates constitution shall become a matter of collaborative consultation, We see Ourselves as even more determined to begin fulfilling our promise to Our subjects in ways that are in accordance with Our free and determined inner conviction.

Infused with the most earnest desire to tie the band of trust between Us and Our people ever more securely, and to bring all of our State establishments closer to perfection on the trail that We are blazing, We have written the following constitutional charter, and solemnly promise for Us and Our successors that We will uphold and have her upheld loyally and conscientiously.

Part I: Of the Grand Duchy and the Government in General

Article 1

The Grand Duchy constitutes one component of the German Federation.

Article 2

All organic decisions of the Federal Assembly that pertain to the constitutional relations in Germany or the relations of German citizens in general, constitute part of the constitutional law of Baden. This law is binding for all classes of country nationals, after they have been declared as such by the Head of State.

Article 3

The Grand Duchy is indivisible and imprescriptible in all of its parts.

Article 4

The government of the country is hereditary in the Grand Ducal family according to the ordinances of the Declaration of the 4th of October 1817, which, as a foundation of the law of the House, constitutes an important component of the constitution and shall be regarded as included in the present document.

Article 5

The Grand Duke combines in himself all rights of the Government, and shall exercise them under the fixed regulations of this constitutional charter.

His person is sacred and inviolable.

Article 6

The Grand Duchy has an Estates constitution.

Part II: Civil and Political Rights of the Citizens of Baden and Specific Guarantees

Article 7

The civil rights of the citizens of Baden are the same in every respect, unless the constitution explicitly establishes an exception.

The Grand Ducal minister of State and all civil servants are responsible for precise adherence to the constitution.

Article 8

All citizens of Baden shall contribute to the public financial burdens, without distinctions. All exemptions from direct or indirect taxes are hereby reversed and shall remain as such.

Article 9

All citizens of the three Christian denominations have the same claim to all civil, military, and church offices.

All foreigners who we confer a State office shall immediately receive citizen status through this bestowal.

Article 10

Differences in birth and in religion are not reasons for exemption from obligatory military service, except for the exemption made in the Federal Act for families of the Estates.

Article 11

For the basic financial burdens and obligatory services and all of the charges originating from the abolished practice of serfdom, which have already been proclaimed redeemable, there shall be a law regulating the buying of these charges so as to ensure their appropriateness.

Article 12

The law from the 14th of August 1817, regarding the freedom to emigrate, shall be regarded as part of the constitution.

Article 13

The property and the personal freedom of all of the citizens of Baden are protected in the same way by the constitution.

Article 14

The courts are independent within the limits of their competence.

All findings regarding civil proceedings must come from ordained courts of law.

The Grand Ducal financial administration is authorized to take the right to legislation from the State courts in any conflicts originating from private law relations. No one can be forced to give his property for public purposes, except after the State ministry consults and makes a decision, and after preliminary compensation.

Article 15

From no person may his proper judge be withdrawn during a criminal proceeding.

No one may be imprisoned outside of lawful form, nor may he be detained for longer than twice 24 hours without being debriefed regarding the reason for his arrest.

The Grand Duke may soften or completely drop punishments that have already been determined; however he may not harden them.

Article 16

Asset confiscation shall be abolished.

Article 17

The freedom of the press shall be handled by the future regulations of the Federal Assembly.

Article 18

Every resident of the country shall enjoy unhindered freedom of conscience and the same protection shall be provided in consideration for the way in which he worships God.

Article 19

The political rights of the three Christian denominations shall be the same.

Article 20

The goods of the Church, the property goods, and the income of endowments, educational establishments and charity-related establishments may not be taken from their intended purpose.

Article 21

The endowments of both of the universities in the country and of other establishments of higher education shall remain undiminished, whether they are comprised of property goods and income or of grants from the general State treasury.

Article 22

Each liability taken from creditors by the side of the State is inviolable.

The institute of the amortization treasury shall be maintained in its current state.

Article 23

The powers that were bestowed upon the relatives of the Grand Duchy, former empire Estates, and immediate members of the former royal knightage though the Edict of the 23rd of April 1818 form a part of the State constitution.

Article 24

The legal relationships of civil servants are guaranteed through the constitution, in the way that the law of today has established them.

Article 25

The institute of secular and religious widows' funds and fire insurance shall remain in their present state and shall be placed under the protection of the constitution.

Part III: The Estates Assembly, Rights and Duties of Members of the Estates

Article 26

The Estates of the country are divided into two chambers.

Article 27

The first chamber consists of:

1. The Princes of the House of the Grand Duke,
2. The heads of the Estates families,
3. The Bishop of the country and a protestant priest with the position of a prelate, who has been designated for this position by the Grand Duke for the duration of his life,
4. Eight assemblymen of the territorial nobility,

• Reference to country's history

• Structure of legislative chamber(s)

• First chamber representation quotas
• Eligibility for first chamber
• First chamber selection
• Mentions of social class

5. Two assemblymen from the universities of the country,
6. Persons designated to be members of this chamber by the Grand Duke without regard for class and birth.

Article 28

The princes of the House and the lords of the Estates shall join the Estates Assembly after they become of age. From the families of the lords of the Estates which are split into several branches, the head of each familial branch that possesses lordship over an Estate shall be a member of the first chamber.

While the possessor of the lordship over an Estate is under age, his voice shall be inactive.

The heads of noble families who confer an honor of high nobility from the Grand Duke shall join the first chamber as hereditary Estates of the country, just as the lords of Estates. They must, however, possess hereditary property that either originates from their family or is a fiefdom, acquired by the right of the firstborn and linear inheritance. This property must be worth at least 300,000 guilder in property and income taxes after the subtraction of capital burdens.

Article 29

Regarding the election of the assemblymen who are territorial nobility, all territorial nobility who have reached their 22nd birthday and possess a residence in the country have a voice. Electable are all voice possessing territorial nobility who have reached their 26th birthday. Each election is effective for eight years. Every four years half of the deputies of the territorial nobility shall resign.

Noble possessors of property can apply to the Grand Duke for a voice and the ability to be elected in the elections of the territorial nobility as long as they possess property that either originates from their family or is a fiefdom and is worth at least 60,000 guilder in property and income taxes after the subtraction of capital burdens, and has been acquired by the right of the firstborn according to linear inheritance.

Article 30

In the case of the lack of a Bishop of the country, the Bishop administrator shall join the Estates Assembly.

Article 31

Each of the two universities of the country shall elect their assemblymen for four years. The assemblymen shall be either professors or scholars or public servants of the country, otherwise the choice is theirs. Only the ordained professors shall have a voice.

Article 32

The number of members of the first chamber who have been appointed by the Grand Duke may never exceed eight persons.

- Earnings disclosure requirement
- Head of state powers
- Right to transfer property

- Eligibility for first chamber
- First chamber selection
- Mentions of social class
- Restrictions on voting
- Minimum age for first chamber
- Term length for first chamber

- Earnings disclosure requirement
- Head of state powers
- Right to transfer property

- Eligibility for first chamber
- First chamber selection
- Term length for first chamber

- First chamber selection

Article 33

The second chamber consists of 63 assemblymen from cities and governmental agencies, according to the list indicating the arrangement thereof that has been attached to this constitutional charter.

Article 34

These assemblymen shall be elected by elected electoral delegates.

Article 35

Those who are current members of the first chamber, or who have a voice or are electable during the election of the territorial nobility can neither exercise their right to vote during the election of the electoral delegates, nor can they be elected as electoral delegates or assemblymen from cities or governmental agencies.

Article 36

All other citizens who have reached their 26th birthday and are either registered citizens of their district or who hold a public office have a voice and are electable for the election of the electoral delegates.

Article 37

In regards to the assemblymen, any citizen who is not excluded by Article 35 may be appointed, without consideration for his place of residence, so long as he

1. Belongs to one of the three Christian denominations
2. Has reached his 31st birthday, and
3. For his land taxes, house taxes, and business taxes has been entered into the land register with a capital of at least 10,000 guilder, or draws an annual pension for the duration of his life of at least 1500 guilder from property that either originates from his family or is a fiefdom, or draws a fixed and constant salary or an income from the church of the same value as civil or church servants. Also in the latter two cases, the citizen must pay some direct tax from his property.

Country district officers, Estates district officers, territorial nobility district officers, priests, doctors, and other religious or secular local servants cannot be elected as assemblymen in the voting districts to which their office belongs.

Article 38

The assemblymen from cities and governmental agencies shall be appointed for 8 years in such a way that one-fourth of the chamber is replaced every two years.

Article 39

Every new election of an assemblyman, made necessary due either to disbandment of the assembly or the routine resignation of a member, shall also entail a new election of electoral delegates.

Article 40

Every resigned assemblyman is reelectable.

Article 41

Every chamber shall recognize their members even if their election was disputable.

Article 42

The Grand Duke shall call the Estates together, adjourn them and be able to disband them.

Article 43

The disbandment of the Estates shall cause all members of the first and second chambers who have been appointed by elections to lose their positions, including the assemblymen of the territorial nobility, universities, cities and governmental agencies.

Article 44

If the disbandment shall occur before the purpose for consultation has been exhaustively discussed, a new election must take place within no more than three months after the disbandment.

Article 45

The Grand Duke shall appoint the president of the first chamber for each representative assembly. The second chamber shall elect three candidates for the position of president, from which the Grand Duke shall choose one to confirm for the duration of session.

Article 46

One Estates Assembly must take place every two years.

Article 47

The members of both chambers cannot exercise their right to vote except in person.

Article 48

The members of the Estates are called to agree upon the matters about which there are consulting by their own conviction. They may not accept instructions from their constituents.

Article 49

No Estates member may be arrested amidst the duration of a session without the express permission of the chamber to which he belongs. There is an exception to this rule if the member is caught after the fresh commitment of a criminal offense.

• Dismissal of the legislature

• Dismissal of the legislature

• Head of state powers
• Leader of first chamber
• Leader of second chamber

• Immunity of legislators

Article 50

The Estates may only concern themselves with matters that are appropriate for their consultation according to current constitutional law, or that have been specifically brought to them by the Grand Duke.

Article 51

There shall exist a committee consisting of the presidents of the last session, three other members of the first chamber, and six members of the second chamber. The power of this committee shall be limited to the cases mentioned specifically in this charter, or matters from the last representative assembly assigned to the committee by the Grand Duke.

This committee shall be elected by a relative majority of votes before the closing or adjournment of each representative assembly in both chambers. Each disbandment of a representative assembly also entails the disbandment of this committee, even if the committee has just been elected.

Article 52

The chambers can neither assemble themselves of their own will, nor can they remain together after disbandment or adjournment for continued consultation.

Part IV: Powers of the Estates

Article 53

Without the approval of the Estates, no tax may be issued or lifted.

Article 54

The tax laws shall be given for the duration of two years, as a general rule. Taxes that stand in direct connection with contracts which have been closed for a longer stretch of time, however, cannot be changed before the expiration of the contract with which the tax is concerned.

Article 55

The governmental budget and a detailed summary of the usage of the money that was collected in the previous years must be rendered with the drafts of tax laws. There may not appear any entries therein for secret expenditures for which there is no written signature from a member of the State ministry, assuring that the sum has been or will be truly used in the best interests of the country. This written signature must be brought to the Grand Duke.

Article 56

The Estates cannot tie the approval of taxes to conditions.

Article 57

Without the approval of the Estates no loan can be validated. Exceptions are made for loans through which only State income is anticipated to become State expenditures, as well as borrowings of the amortization treasury, for which it is authorized through its fundamental laws.

In the cases of extraordinary, unforeseen and urgent requirements of the State, whose amount does not stand in proportion to the cost of an irregular assembly of the Estates, and for which the credit rating of the Estates is not adequate, the approval of the majority of the Estates committee is enough to validate the borrowing of money. The conducted negotiation shall be presented during the next representative assembly.

Article 58

No domains may be divested without the approval of the Estates. The exceptions are the discharge of debt from already closed acquittances, the discharge of fiefdoms, inherited holdings, payments, interest, and soccage services, the selling of collapsing buildings, of property goods and income that lay in neighboring States, and all divestments that occur out of consideration for the State economy for the promotion of the culture of the country, or the abolishment of a detrimental administration. The proceeds, however, must either be used for new acquisition or be given over to the amortization treasury for the payment of interest.

Also excluded are exchanges and divestments for the purpose of the ending of a pending legal dispute over property or subservience-related affairs. Further excluded is the reawarding of fiefdoms of the Crown, of knights, and of chambers, if these fiefdoms have become property of the government during the time in which the current regent has been in power.

Due to the fact that the purposes of the pragmatic sanctions regarding State debt and State divestments from the 1st of October 1806 and the 18th of November 1808 have been fully achieved through this Article and Article 57, they shall no longer be considered binding starting the same day that the Estates constitution becomes effective.

Article 59

We want to continue to leave the profits of the domains for the paying of State burdens, regardless of the fact that these domains are undisputedly patrimonial property of the regent and his family, according to generally recognized principles of State law and the rights of princes, and We also hereby expressly confirm them as such regarding that characteristic in virtue of the duties that We carry as head of the family. We want this, however, in order that Our subjects may be alleviated, as is Our innermost desire. An exception shall be made for the civil list and other related burdens in case We do not find Ourselves in the financial position to leave those profits exclusively for the paying of State burdens.

The civil list cannot be raised without the agreement of the Estates, and without the consent of the Grand Duke it can never be lowered.

Article 60

Every draft of laws regarding finances shall come first to the second chamber, and shall only come to the first chamber if accepted by the second. The first chamber shall vote either to reject the draft, or to accept the whole law without any changes.

• Finance bills

• Standing committees

• Budget bills
• Finance bills
• First chamber reserved policy areas
• Tax bills
• Second chamber reserved policy areas

Article 61

If the majority of the first chamber does not agree with the decision of the second chamber, both the supporting and non-supporting voices from both chambers shall be counted together, and the Estates decision shall be reached through the absolute majority of all voices.

Article 62

Old Estates taxes may be collected for a six-month long grace period in the event of the disbandment of the Estates assembly before a new budget is agreed upon, or when the Estates consultation is delayed.

Article 63

In armament for a war or during a period of war the Grand Duke may validate loans or call for war taxes before the Estates have consented. This shall be permitted in order that the Grand Duke may fulfill his governmental duties in a swift and efficient manner. For such cases, closer inspection and involvement in governmental administration shall be granted to the Estates through the following means:

1. A committee of delegates, consisting of two members of the ministries of finance and defense and a commissary for the defense treasury shall be called together in order to oversee the flow of funds, to ensure that money collected as war taxes is truly and exclusively spent to that end, and this committee shall
2. Render just as many members as the Grand Duke, not including the director, for the defense commission that shall be assembled due to defense prestations of all kinds. This commission shall be appointed to lead the marching entity, the entity concerning itself with provisions, and the entity delivering supplies. The committee of Estates delegates shall also have the right to assign two assemblymen out of the Estates members of each provincial district to fulfill the same purpose.

Article 64

No draft of a law that amends, elucidates, or changes the constitutional charter shall become law without the approval of a majority of two-thirds of the present Estates members of each of the two chambers.

Article 65

In order for any other new draft of a general law of the country to become law, whether it be regarding the freedom of persons or the property of the citizens of the State, the approval of an absolute majority of each of the two chambers is required. This also applies for changes or authentic elucidations of current laws.

Article 66

The Grand Duke shall confirm and promulgate all laws. Stemming from his rights to supervision and administration, he shall also enact all orders, regulations, and general ordinances that require execution and management and are necessary for the security of the State. He shall also enact necessary ordinances that are by their nature appropriate for Estates consultation, but are urgent for the welfare of the State, and for which every delay would impede their temporal purpose.

Article 67

The chambers have the right to suggestions and grievances. Ordinances in which regulations have been incorporated that the chambers hold to offend their right to approval shall be immediately put out of effect through their founded grievance, once raised. The chambers shall give the Grand Duke a statement of their rationale for their grievance, which may include a request to propose a new law. They have the right to notify the government of any abuse in the administration that has come to their attention. They have the right to formally accuse ministers and members of the highest public authorities of violations of the constitution or recognized constitutional rights. A special law shall determine the degree of the penalty, the public authorities that are to judge, and the procedure that shall be followed in cases of such accusations.

Grievances of individual citizens regarding offenses of their constitutional authorities cannot be brought to the chambers except in writing, and then may only be accepted if the citizen bringing the grievance proves that he first appealed in vain to the appropriate regional office and lastly to the State ministry.

No suggestion, grievance or accusation may be brought to the Grand Duke without the approval of the majority of both of the two chambers.

Part V: The Opening of Estates Sessions and Forms of Consultation

Article 68

Each representative assembly shall be both opened and closed by the Grand Duke himself in person, or by a commissary whom he has appointed. This shall apply to both chambers.

Article 69

All newly joined members shall swear the following oath at the opening of the representative assembly:

“I swear loyalty to the Grand Duke, obedience to laws, observation and adherence to the State constitution, and in the Estates assembly only to counsel according to my inner conviction regarding the general welfare of the entire country, without consideration for special Estates or classes: may God and His holy Gospel truly help me.”

- Head of state decree power
- Approval of general legislation

- Cabinet removal
- Head of state decree power
- Ultra-vires administrative actions

- Duty to obey the constitution
- God or other deities
- Oaths to abide by constitution

Article 70

No proposal of a regional authority can be brought to the chambers for discussion and voting before it has been discussed by a special commission and a report has been given by that commission.

Article 71

The commissaries of regional authorities shall appear together with the Estates commissaries for the preliminary discussion of any draft for which either side holds such to be necessary. No significant changes can be made to drafts of laws if the changes have not been discussed in such a collaborative meeting with commissaries of regional authorities.

Article 72

The chambers may send any draft brought for discussion back to the commissions.

Article 73

A draft of a law or a suggestion of any sort that has been brought from one chamber to the other can be given back to the other chamber with suggestions for improvement after being discussed by a commission according to Article 71, as long as the draft or suggestion does not concern financial matters.

Article 74

Every valid decision of a chamber requires an absolute majority of voices of the complete assembly, unless an exception has been expressly established. If there is the same number of voices on each side, the voice of the president shall make the decision. If the event should arise in which the voices of both chambers must be counted together due to financial matters, if there are the same number of voices on each side the voice of the president of the second chamber shall make the decision.

One shall vote with a loud voice and the words: Agreed! or: Not agreed! Only during the election of the candidate for the position of president of the second chamber shall the members of the committee and the members of the commissions decide by a relative majority of voices through the process of secret voting.

The first chamber shall be considered complete with the attendance of 10 members, and the second chamber shall be considered complete with the attendance of 35 members, including the president. For valid consultation regarding changes in the constitution, the attendance of three-fourths of the members of both chambers shall be required.

Article 75

1. The two chambers cannot assemble themselves together in their entirety nor by means of commissions; they are limited in their relationship with each other to reciprocal notification regarding their decisions.
2. They stand in direct contact only with the State ministry of the Grand Duke through transactions; they cannot issue any orders or announcements of any kind.

3. Deputations may only be deputized with a special allowance obtained from the Grand Duke.

Article 76

The ministers and members of the State ministry and the commissaries of the Grand Duke shall always have access to every chamber, during both public and private assemblies, and they must be heard in all discussions if they so desire. Only for the voting process shall they take leave, if they are not members of the chamber. After they have left discussions may not be reopened.

Article 77

Only commissaries of regional authorities and members of Estates commissions are permitted to read off of written speeches; all other members are solely permitted to give oral presentations.

Article 78

The meetings of both chambers shall be public. They can be made private at the request of the governmental commissaries at openings for which they consider privacy necessary. They can also be made private at the request of three members, however, after the audience has left at least one-fourth of the members must agree that private consultation is necessary.

Article 79

The order according to which the assemblymen of the territorial nobility, of the cities and of the governmental agencies shall resign from the assembly shall be determined through lottery, once and for all, at the first representative assembly for each individual voting district. Half of the assemblymen of the territorial nobility shall resign in the year 1823, and then every four years half again. In the year 1821 one-fourth of the assemblymen of the cities and governmental agencies shall resign, and then every two years one-fourth again.

Article 80

For the first voting procedure the central commission of the regional authorities shall observe the event, due to the possibility of emerging disputes regarding the validity of the voting procedure. The commission shall be assigned with the first execution of the constitutional law.

Article 81

The time of the opening of the first representative assembly is arranged to be the first of February, 1819.

Article 82

1. The present status of all branches of administration and legislature at the time of the opening of the first representative assembly, at which time the constitution shall become effective, shall continue until the first leave-taking of the representative assembly in which a new decision regarding matters proper for them has been made.
2. Especially the first budget shall be executed provisionally until an agreement with the Estates has been reached.

Article 83

The present constitution shall be placed under the guarantee of the German Federation.

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