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BASIC LAW
FOR THE
FEDERAL REPUBLIC
OF GERMANY

PROMULGATED
BY THE PARLIAMENTARY COUNCIL
ON 23 MAY 1949
AS AMENDED UP TO AND INCLUDING
20 DECEMBER 1993

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BASIC LAW
FOR THE
FEDERAL REPUBLIC
OF GERMANY

F Clifton White Resource Center
International Foundation for Election Systems

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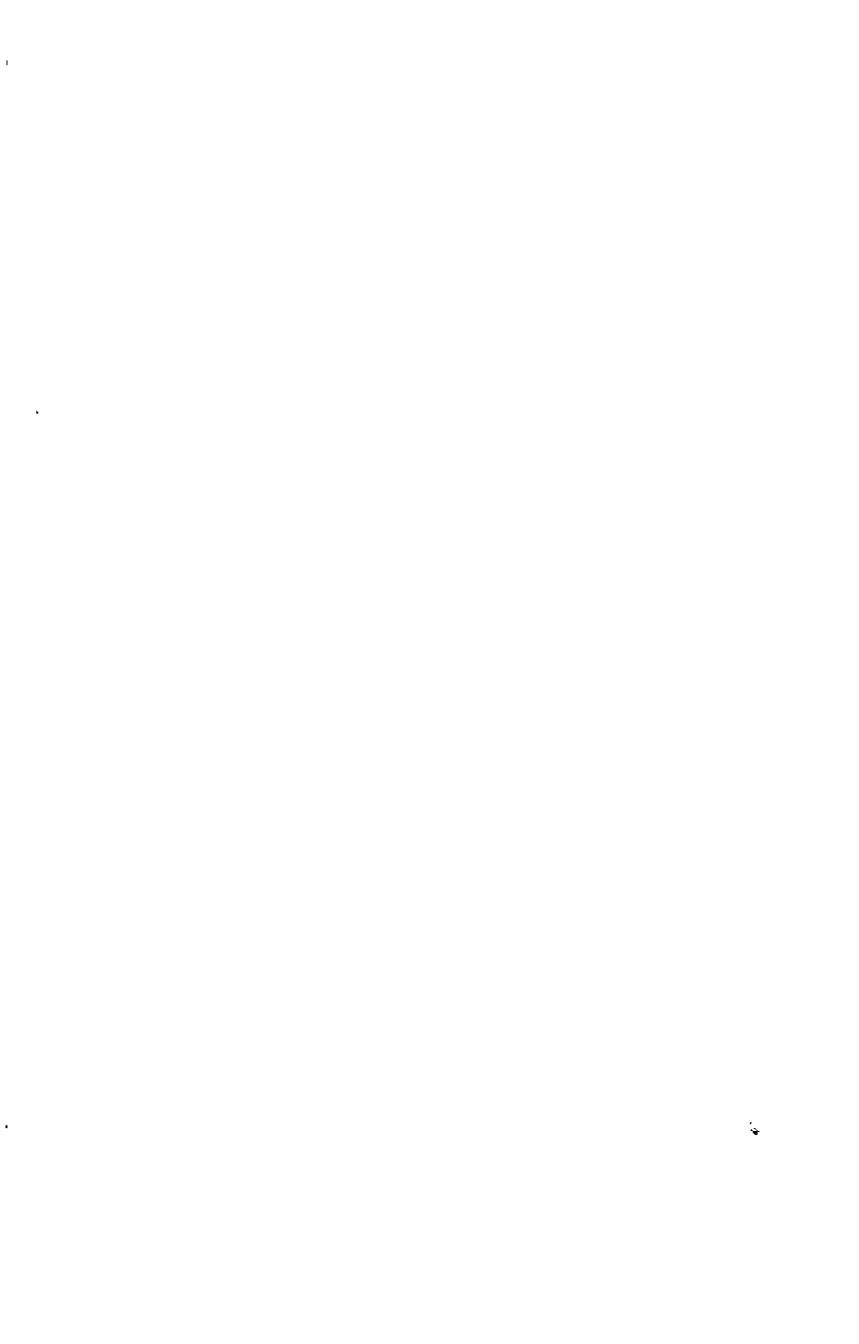
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BASIC LAW FOR THE FEDERAL REPUBLIC OF GERMANY

23 May 1949

The Parliamentary Council, meeting in public session at Bonn on the Rhine on 23 May 1949, confirmed that the Basic Law for the Federal Republic of Germany, which was adopted by the Parliamentary Council on 8 May 1949, was ratified in the week of 16 to 22 May 1949 by the parliaments of more than two thirds of the participating German Länder.

By virtue of this fact the Parliamentary Council, represented by its Presidents, has signed and promulgated the Basic Law.

The Basic Law is hereby published in the Federal Law Gazette pursuant to paragraph (3) of Article 145. *

PREAMBLE

Conscious of their responsibility before God and humankind,

Animated by the resolve to serve world peace as an equal part of a united Europe,

The German people have adopted, by virtue of their constituent power, this Basic Law.

The Germans in the Länder of Baden-Württemberg, Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Hesse, Lower Saxony, Mecklenburg-Western Pomerania, North-Rhine/Westphalia, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia have achieved the unity and freedom of Germany in free self-determination. This Basic Law is thus valid for the whole German nation.

* The above notice of publication appeared in the first issue of the Federal Law Gazette dated 23 May 1949.

CHAPTER I. BASIC RIGHTS

Article 1 (Protection of human dignity)

- (1) The dignity of man is inviolable. To respect and protect it shall be the duty of all public authority.
- (2) The German people therefore uphold human rights as inviolable and inalienable and as the basis of every community, of peace and justice in the world.
- (3) The following basic rights shall bind the legislature, the executive and the judiciary as directly enforceable law.

Article 2 (Personal freedom)

- (1) Everybody has the right to self-fulfilment in so far as they do not violate the rights of others or offend against the constitutional order or morality.
- (2) Everybody has the right to life and physical integrity. Personal freedom is inviolable. These rights may not be encroached upon save pursuant to a law.

Article 3 (Equality before the law)

- (1) All people are equal before the law.
- (2) Men and women have equal rights.
- (3) Nobody shall be prejudiced or favoured because of their sex, birth, race, language, national or social origin, faith, religion or political opinions.

Article 4 (Freedom of faith, conscience and creed)

- (1) Freedom of faith and conscience as well as freedom of creed, religious or ideological, are inviolable.
- (2) The undisturbed practice of religion shall be guaranteed.

(3) Nobody may be forced against their conscience into military service involving armed combat. Details shall be the subject of a federal law.

Article 5 (Freedom of expression)

(1) Everybody has the right freely to express and disseminate their opinions orally, in writing or visually and to obtain information from generally accessible sources without hindrance. Freedom of the press and freedom of reporting through audiovisual media shall be guaranteed. There shall be no censorship.

(2) These rights are subject to limitations embodied in the provisions of general legislation, statutory provisions for the protection of young persons and the citizen's right to personal respect.

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

Article 6 (Marriage and family, children born outside marriage)

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

(2) The care and upbringing of children are a natural right of parents and a duty primarily incumbent on them. It is the responsibility of the community to ensure that they perform this duty.

(3) Children may not be separated from their families against the will of their parents or guardians save in accordance with a law in cases where they fail in their duty or there is a danger of the children being seriously neglected for other reasons.

(4) Every mother is entitled to the protection and care of the community.

(5) Children born outside marriage shall be provided by law with the same opportunities for their physical and mental development and regarding their place in society as are enjoyed by those born in marriage.

Article 7 (School education)

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

(2) Parents and guardians have the right to decide whether children receive religious instruction.

(3) Religious instruction shall form part of the curriculum in state schools except non-denominational schools. Without prejudice to the state's right of supervision, religious instruction shall be given in accordance with the doctrine of the religious community concerned. Teachers may not be obliged to give religious instruction against their will.

(4) The right to establish private schools shall be guaranteed. Private schools as alternatives to state schools shall require the approval of the state and be subject to Land legislation. Such approval shall be given where private schools are not inferior to state schools in terms of their educational aims, their facilities and the training of their teaching staff and where it does not encourage segregation of pupils according to the means of their parents. Approval shall be withheld where the economic and legal status of the teaching staff is not adequately secured.

(5) A private elementary school shall be approved only where the education authority finds that it meets a special educational need or where, at the request of parents or guardians, it is to be established as a non-denominational, denominational or alternative school and no state elementary school of that type exists locally.

(6) Preparatory schools shall remain abolished.

Article 8 (Freedom of assembly)

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

(2) In the case of outdoor assemblies this right may be restricted by or pursuant to a law.

Article 9 (Freedom of association)

(1) All Germans have the right to form associations, partnerships and corporations.

(2) Associations whose aims or activities contravene criminal law or are directed against the constitutional order or the notion of international understanding shall be banned.

(3) The right to form associations in order to safeguard and improve working and economic conditions shall be guaranteed to every individual and all occupations and professions. Agreements restricting or intended to hamper the exercise of this right shall be null and void; measures to this end shall be illegal. Measures taken pursuant to Article 12a, paragraphs (2) and (3) of Article 35, paragraph (4) of Article 87a, or Article 91 may not be directed against industrial disputes engaged in by associations within the meaning of the first sentence of this paragraph in order to safeguard and improve working and economic conditions.

Article 10

(Privacy of correspondence, posts and telecommunications)

(1) Privacy of correspondence, posts and telecommunications is inviolable.

(2) Restrictions may only be ordered pursuant to a law. Where a restriction serves to protect the free democratic basic order or the existence or security of the Federation or a Land the law may stipulate that the person affected shall not be informed of such restriction and that recourse to the courts shall be replaced by a review of the case by bodies and subsidiary bodies appointed by parliament.

Article 11 (Freedom of movement)

(1) All Germans have the right to move freely throughout the federal territory.

(2) This right may be restricted only by or pursuant to a law and only where a person does not have a sufficient livelihood and his or her freedom of movement would be a considerable burden on the community or where such restriction is necessary to avert an imminent danger to the existence or the free democratic basic order of the Federation or a Land, or to prevent an epidemic, a natural disaster, grave accident or criminal act, or to protect young persons from serious neglect.

Article 12

(Free choice of occupation or profession, prohibition of forced labour)

(1) All Germans have the right freely to choose their occupation or profession, their place of work, study or training. The practice of an occupation or profession may be regulated by or pursuant to a law.

(2) Nobody may be forced to do work of a particular kind except as part of a traditional compulsory community service that applies generally and equally to all.

(3) Forced labour may only be imposed on people deprived of their liberty by court sentence.

Article 12a (Compulsory military or alternative service)

(1) Men who have reached the age of eighteen may be required to serve in the Armed Forces, the Federal Border Guard or a civil defence organization.

(2) Anybody who refuses military service involving armed combat on grounds of conscience may be assigned to alternative service. The period of alternative service shall not exceed that of military service. Details shall be the subject of a law which shall not impair the freedom to decide in accordance with the dictates of conscience and must also provide for the possibility of alternative service not connected with units of the Armed Forces or the Federal Border Guard.

(3) People liable to compulsory military service who are not assigned to service pursuant to paragraph (1) or (2) of this Article may, if the country is in a state of defence, be assigned by or pursuant to a law to employment involving civilian service for defence purposes, including protection of the civilian population; they may not be assigned to public employment except to carry out police or other responsibilities of public administration as can only be discharged by public servants. People may be assigned to employment of the kind referred to in the first sentence of this paragraph with the Armed Forces, including the supplying and servicing of the latter, or with public administrative authorities; assignments to employment connected with supplying and servicing the civilian population shall not be permissible except in order to meet their vital requirements or to ensure their safety.

(4) Where, if the country is in a state of defence, civilian service requirements in the civilian health system or in the stationary military hospital organization cannot be met on a voluntary basis women between eighteen and fifty-five years of age may be assigned to such service by or pursuant to a law. They may on no account be assigned to military service involving armed combat.

(5) Prior to a state of defence, assignments under paragraph (3) of this Article may only be made where the requirements of paragraph (1) of Article 80a are satisfied. Attendance at training courses in preparation for any service in accordance with paragraph (3) of this Article which demands special knowledge or skills may be required by or pursuant to a law. To this extent the first sentence of this paragraph shall not apply.

(6) Where a state of defence exists and manpower requirements for the purposes referred to in the second sentence of paragraph (3) of this Article cannot be met on a voluntary basis the right of German citizens to give up their occupation, profession or employment may be restricted by or pursuant to a law in order to meet those requirements. The first sentence of paragraph (5) of this Article shall apply *mutatis mutandis* prior to a state of defence.

Article 13 (Privacy of the home)

(1) Privacy of the home is inviolable.

(2) Searches may be ordered only by a judge or, if there is a danger in delay, by other authorities as provided for by law and may be carried out only in the manner prescribed by the law.

(3) Intrusions and restrictions shall otherwise only be permissible to avert danger to the public or to the life of an individual or, pursuant to a law, an acute threat to public safety and order, in particular to relieve a housing shortage, to prevent an epidemic or to protect young persons at risk.

Article 14 (Property, inheritance, expropriation)

(1) Property and the right of inheritance shall be guaranteed. Their substance and limits shall be determined by law.

(2) Property entails obligations. Its use should also serve the public interest.

(3) Expropriation shall only be permissible in the public interest. It may only be ordered by or pursuant to a law which determines the nature and extent of compensation. Compensation shall reflect a fair balance between the public interest and the interests of those affected. In case of dispute regarding the amount of compensation recourse may be had to the ordinary courts.

Article 15 (Public ownership)

Land, natural resources and means of production may be transferred to public ownership or other forms of public enterprise by a law which determines the nature and extent of compensation. In respect of compensation the third and fourth sentences of paragraph (3) of Article 14 shall apply *mutatis mutandis*.

Article 16 (Nationality, extradition)

(1) Nobody may be deprived of their German citizenship. Loss of citizenship may only occur pursuant to a law, and against the will of those affected only if they do not thereby become stateless.

(2) No German may be extradited to another country.

Article 16a (Asylum)

(1) Anybody persecuted on political grounds has the right of asylum.

(2) Paragraph (1) may not be invoked by anybody who enters the country from a member state of the European Communities or another third country where the application of the Convention relating to the Status of Refugees and the Convention for the Protection of Human Rights and Fundamental Freedoms is assured. Countries outside the European Communities which fulfil the conditions of the first sentence of this paragraph shall be specified by legislation requiring the consent of the Bundesrat. In cases covered by the first sentence measures terminating a person's sojourn may be carried out irrespective of any remedy sought by that person.

(3) Legislation requiring the consent of the Bundesrat may be introduced to specify countries where the legal situation, the application of the law and the general political circumstances justify the assumption that neither political persecution nor inhumane or degrading punishment or treatment takes place there. It shall be presumed that a foreigner from such a country is not subject to persecution on political grounds so long as the person concerned does not present facts supporting the supposition that, contrary to that presumption, he or she is subject to political persecution.

(4) The implementation of measures terminating a person's sojourn shall, in the cases referred to in paragraph (3) and in other cases that are manifestly ill-founded or considered to be manifestly ill-founded, be suspended

by the court only where serious doubt exists as to the legality of the measure; the scope of the investigation may be restricted and objections submitted after the prescribed time-limit may be disregarded. Details shall be the subject of a law.

(5) Paragraphs (1) to (4) do not conflict with international agreements of member states of the European Communities among themselves and with third countries which, with due regard for the obligations arising from the Convention relating to the Status of Refugees and the Convention for the Protection of Human Rights and Fundamental Freedoms, whose application must be assured in the contracting states, establish jurisdiction for the consideration of applications for asylum including the mutual recognition of decisions on asylum.

Article 17 (Right of petition)

Everybody has the right individually or jointly with others to address written requests or complaints to the appropriate authorities and to parliament.

Article 17a (Restriction of certain basic rights by legislation on defence and alternative service)

(1) Legislation on military and alternative service may restrict during their period of service the basic right of members of the Armed Forces and of the alternative services freely to express and disseminate their opinions orally, in writing or visually (first half-sentence of paragraph (1) of Article 5), the freedom of assembly (Article 8), and the right of petition (Article 17) in so far as this right permits the submission of requests or complaints jointly with others.

(2) Legislation serving defence purposes including protection of the civilian population may provide for restriction of the basic rights of freedom of movement (Article 11) and privacy of the home (Article 13).

Article 18 (Forfeiture of basic rights)

Those who abuse their freedom of expression, in particular freedom of the press (paragraph (1) of Article 5), freedom of teaching (paragraph (3) of Article 5), freedom of assembly (Article 8), freedom of association (Article 9), privacy of correspondence, posts and telecommunications (Article 10), property (Article 14), or the right of asylum (Article 16a) in

order to undermine the free democratic basic order shall forfeit these basic rights. Such forfeiture and its extent shall be determined by the Federal Constitutional Court.

Article 19 (Restriction of basic rights)

(1) In so far as a basic right may, under this Basic Law, be restricted by or pursuant to a law the law shall apply generally and not merely to one case. Furthermore, the law shall specify the basic right and relevant Article.

(2) In no case may the essence of a basic right be encroached upon.

(3) The basic rights shall also apply to domestic legal persons to the extent that the nature of such rights permits.

(4) Where rights are violated by public authority the person affected shall have recourse to law. In so far as no other jurisdiction has been established such recourse shall be to the ordinary courts. The second sentence of paragraph (2) of Article 10 shall not be affected by the provisions of this paragraph.

CHAPTER II. THE FEDERATION AND THE LÄNDER

Article 20

(Political and social structure, defence of the constitutional order)

(1) The Federal Republic of Germany shall be a democratic and social federal state.

(2) All public authority emanates from the people. It shall be exercised by the people through elections and referendums and by specific legislative, executive and judicial bodies.

(3) The legislature shall be bound by the constitutional order, the executive and the judiciary by law and justice.

(4) All Germans have the right to resist anybody attempting to do away with this constitutional order, should no other remedy be possible.

Article 21 (Parties)

(1) The parties shall help form the political will of the people. They may be freely established. Their internal organization shall conform to democratic principles. They shall publicly account for the sources and use of their funds and for their assets.

(2) Parties which by reason of their aims or the conduct of their adherents seek to impair or do away with the free democratic basic order or threaten the existence of the Federal Republic of Germany shall be unconstitutional. The Federal Constitutional Court shall rule on the question of unconstitutionality.

(3) Details shall be the subject of federal laws.

Article 22 (The federal flag)

The federal flag shall be black, red and gold.

Article 23 (The European Union)

(1) With a view to establishing a united Europe the Federal Republic of Germany shall participate in the development of the European Union,

which is committed to democratic, rule-of-law, social and federal principles as well as the principle of subsidiarity, and ensures protection of basic rights comparable in substance to that afforded by this Basic Law. To this end the Federation may transfer sovereign powers by law with the consent of the Bundesrat. The establishment of the European Union as well as amendments to its statutory foundations and comparable regulations which amend or supplement the content of this Basic Law or make such amendments or supplements possible shall be subject to the provisions of paragraphs (2) and (3) of Article 79.

(2) The Bundestag and, through the Bundesrat, the Länder shall be involved in matters concerning the European Union. The Federal Government shall inform the Bundestag and the Bundesrat comprehensively and as quickly as possible.

(3) The Federal Government shall give the Bundestag the opportunity to state its opinion before participating in the legislative process of the European Union. The Federal Government shall take account of the opinion of the Bundestag in the negotiations. Details shall be the subject of a law.

(4) The Bundesrat shall be involved in the decision-making process of the Federation in so far as it would have to be involved in a corresponding internal measure or in so far as the Länder would be internally responsible.

(5) Where in an area in which the Federation has exclusive legislative jurisdiction the interests of the Länder are affected or where in other respects the Federation has the right to legislate, the Federal Government shall take into account the opinion of the Bundesrat. Where essentially the legislative powers of the Länder, the establishment of their authorities or their administrative procedures are affected, the opinion of the Bundesrat shall in this respect prevail in the decision-making process of the Federation; in this connection the responsibility of the Federation for the country as a whole shall be maintained. In matters which may lead to expenditure increases or revenue cuts for the Federation, the approval of the Federal Government shall be necessary.

(6) Where essentially the exclusive legislative jurisdiction of the Länder is affected the exercise of the rights of the Federal Republic of Germany as a member state of the European Union shall be transferred by the Federation to a representative of the Länder designated by the Bundesrat. Those rights shall be exercised with the participation of and in agreement with the Federal Government; in this connection the responsibility of the Federation for the country as a whole shall be maintained.

(7) Details regarding paragraphs (4) to (6) shall be the subject of a law which shall require the consent of the Bundesrat.

Article 24 (International organizations)

(1) The Federation may by legislation transfer sovereign powers to international organizations.

(1a) Where the Länder have the right to exercise state powers and to discharge state functions they may with the consent of the Federal Government transfer sovereign powers to transfrontier institutions in neighbouring regions.

(2) With a view to maintaining peace the Federation may become a party to a system of collective security; in doing so it shall consent to such limitations upon its sovereign powers as will bring about and secure a peaceful and lasting order in Europe and among the nations of the world.

(3) For the purpose of settling international disputes the Federation shall accede to agreements providing for general, comprehensive and obligatory international arbitration.

Article 25 (International law and federal law)

The general rules of international law shall be an integral part of federal law. They shall override laws and directly establish rights and obligations for the inhabitants of the federal territory.

Article 26 (Ban on preparations for military aggression)

(1) Any activities apt or intended to disturb peaceful international relations, especially preparations for military aggression, shall be unconstitutional. They shall be made a criminal offence.

(2) Weapons designed for warfare may not be manufactured, transported or marketed except with the permission of the Federal Government. Details shall be the subject of a federal law.

Article 27 (The merchant fleet)

All German merchant vessels shall form one merchant fleet.

Article 28

(Federal guarantee of Land constitutions and local government)

(1) The constitutional order in the Länder shall conform to the principles of the republican, democratic and social state governed by the rule of law within the meaning of this Basic Law. In each of the Länder, counties and municipalities the people shall be represented by a body elected by general, direct, free, equal and secret ballot. In county and municipal elections persons who are nationals of member states of the European Community, too, may vote and shall be eligible for election in accordance with European Community law. In the municipalities the local council may take the place of an elected body.

(2) The municipalities shall be guaranteed the right to manage all the affairs of the local community on their own responsibility within the limits set by law. Within the framework of their statutory functions the associations of municipalities likewise have the right of self-government in accordance with the law.

(3) The Federation shall ensure that the constitutional order of the Länder conforms to the basic rights and the provisions of paragraphs (1) and (2) of this Article.

Article 29 (Modification of boundaries)

(1) Boundaries may be modified to ensure that the Länder, by virtue of their size and capacity, can effectively perform their functions. Due regard shall be given to regional, historical and cultural ties, economic expediency and the requirements of regional policy and planning.

(2) Boundary modifications shall be introduced by federal law which shall require confirmation by referendum. The affected Länder shall be consulted.

(3) A referendum shall be held in the Länder from whose territories or parts thereof a new Land or a Land with redefined boundaries is to be formed (affected Länder). The question to be voted on is whether the affected Länder are to remain within their existing boundaries or whether the new Land or Land with redefined boundaries should be formed. The vote shall be in favour of the formation of a new Land or of a Land with redefined boundaries if the modification is approved by a majority in the future territory of such Land and in the territories or parts thereof as a whole of an affected Land whose affiliation with a Land is to be changed

accordingly. The vote shall not be in favour where in the territory of one of the affected Länder a majority reject the change; such rejection shall, however, be of no consequence where in one part of the territory whose affiliation with the affected Land is to be changed a majority of two thirds approve, unless in the entire territory of the affected Land a majority of two thirds reject the change.

(4) Where in a clearly defined, homogeneous community and economic area whose parts lie in several Länder and which has a population of at least one million one tenth of those entitled to vote in Bundestag elections submit a petition to the effect that the area in question belong to one Land, a federal law shall be enacted within two years which shall determine whether boundaries of the affected Länder are to be modified pursuant to paragraph (2) of this Article or that a referendum is to be held in the affected Länder.

(5) The referendum shall establish whether a boundary modification proposed in the law meets with approval. The law may contain different but not more than two proposals for the referendum. If a majority approve a proposed boundary modification a federal law shall be enacted within two years which shall determine whether such modification is to be introduced pursuant to paragraph (2) of this Article. If the referendum is approved in accordance with the third and fourth sentences of paragraph (3) of this Article a federal law providing for the formation of the proposed Land shall be enacted within two years of the referendum and shall not require any further confirmation by referendum.

(6) A majority in a referendum shall be a majority of the votes cast, provided that they amount to at least one quarter of those entitled to vote in Bundestag elections. Detailed provisions concerning referendums and petitions shall be the subject of a federal law which may also provide that petitions may not be repeated within a period of five years.

(7) Other modifications of Land boundaries may be effected by agreement between the Länder concerned or by a federal law with the approval of the Bundesrat where the territory which is to be the subject of a boundary modification does not have more than 10,000 inhabitants. Details shall be the subject of a federal law requiring the approval of the Bundesrat and the majority of the Members of the Bundestag. It shall make provision for the affected municipalities and counties to be heard.

Article 30 (Powers of the Federation and the Länder)

Except as otherwise provided or permitted by this Basic Law the exercise of governmental powers and the discharge of governmental functions shall be incumbent on the Länder.

Article 31 (Precedence of federal law)

Federal law shall override Land law.

Article 32 (Foreign relations)

- (1) Relations with other states shall be conducted by the Federation.
- (2) Before a treaty which affects the specific circumstances of a German Land is concluded that Land shall be consulted in good time.
- (3) In so far as the Länder have power to legislate they may, with the consent of the Federal Government, conclude treaties with other states.

Article 33 (Equal civil status, professional civil service)

- (1) All Germans in every Land have the same civil rights and duties.
- (2) All Germans are equally eligible for any public office according to their aptitude, qualifications and professional ability.
- (3) The enjoyment of civil rights, eligibility for public office, and rights acquired in the public service shall not depend on a person's religious denomination. Nobody may suffer disadvantage by reason of their adherence or non-adherence to a denomination or their other convictions.
- (4) The exercise of public authority as a permanent function shall, as a rule, be entrusted to members of the public service whose status, service and loyalty are governed by public law.
- (5) Public service law shall be based on the traditional principles of the professional civil service.

Article 34 (Liability for neglect of duty)

Should anybody, in exercising a public office, neglect their duty towards a third party liability shall rest in principle with the state or the public body employing them. In the event of wilful intent or gross negligence remedy may be sought against the person concerned. In respect of claims for compensation or remedy recourse to the ordinary courts shall not be precluded.

Article 35 (Judicial and administrative assistance)

(1) All federal and Land authorities shall render each other judicial and administrative assistance.

(2) In order to maintain or restore public safety or order a Land may in particularly serious cases call upon forces and facilities of the Federal Border Guard to assist its police where without such assistance the police could not, or only with considerable difficulty, carry out an assignment. In order to cope with a natural disaster or a particularly serious accident a Land may request the assistance of the police forces of other Länder or the forces and facilities of other administrative authorities or of the Federal Border Guard or the Armed Forces.

(3) Where the natural disaster or accident endangers a region larger than a Land the Federal Government may, in so far as necessary to effectively combat such danger, instruct the Land governments to place their police forces at the disposal of other Länder and employ units of the Federal Border Guard or the Armed Forces in support of the police forces. Measures taken by the Federal Government pursuant to the first sentence of this paragraph shall be revoked at any time if requested by the Bundesrat, otherwise as soon as the danger has been removed.

Article 36 (Staff of federal authorities)

(1) Civil servants of supreme federal authorities shall be drawn from all Länder on a proportionate basis. People employed by other federal authorities should as a rule be drawn from the Land where those authorities are located.

(2) Military service laws shall, inter alia, take into account both the division of the Federation into Länder and the regional ties of their populations.

Article 37 (Exercise of federal authority over the Länder)

(1) Where a Land fails to comply with its federal obligations under this Basic Law or other federal law the Federal Government may, with the consent of the Bundesrat, take the necessary steps to enforce compliance.

(2) In exercising this authority the Federal Government or its representative may issue directives to all Länder and their authorities.

CHAPTER III. THE BUNDESTAG

Article 38 (Elections)

(1) The Members of the German Bundestag shall be elected in general, direct, free, equal and secret elections. They shall be representatives of the whole people; they shall not be bound by any instructions, only by their conscience.

(2) Anybody who has reached the age of eighteen is entitled to vote; anybody of majority age is eligible for election.

(3) Details shall be the subject of a federal law.

Article 39 (Electoral period and assembly of the Bundestag)

(1) The Bundestag shall be elected for four years. Its electoral period shall end with the assembly of a new Bundestag. The new election shall be held forty-five months at the earliest and forty-seven months at the latest after the beginning of the electoral period. Where the Bundestag is dissolved the new election shall be held within sixty days.

(2) The Bundestag shall assemble on the thirtieth day after the election at the latest.

(3) The Bundestag shall determine when its sittings are to end and be resumed. The President of the Bundestag may convene it earlier. The President shall be obliged to do so if one third of the Members, the Federal President or the Federal Chancellor so demands.

Article 40 (President, rules of procedure)

(1) The Bundestag shall elect its President, Vice-Presidents and Secretaries. It shall draw up rules of procedure.

(2) The President shall exercise proprietary rights and police powers in the Bundestag building. No search or seizure may take place on the premises of the Bundestag without the President's permission.

Article 41 (Scrutiny of elections)

(1) Scrutiny of elections shall be the responsibility of the Bundestag. It shall also decide whether a Member's seat is forfeited.

(2) Complaints against such decisions of the Bundestag may be lodged with the Federal Constitutional Court.

(3) Details shall be the subject of a federal law.

Article 42 (Proceedings, voting)

(1) Sittings of the Bundestag shall be public. Upon a motion of one tenth of the Members or the Federal Government the public may be excluded by a two-thirds majority. The vote on the motion shall be taken at a sitting not open to the public.

(2) Decisions of the Bundestag shall require a majority of the votes cast unless this Basic Law provides otherwise. The rules of procedure may provide for exceptions in respect of elections to be held by the Bundestag.

(3) True and accurate reports on public meetings of the Bundestag and its committees shall not give rise to any liability.

Article 43 (Attendance of members of the Federal Government and the Bundesrat)

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

(2) The Members of the Bundesrat and the Federal Government as well as their representatives may attend any sittings of the Bundestag and its committees. They shall be heard at any time.

Article 44 (Committees of inquiry)

(1) The Bundestag has the right, and upon the motion of one quarter of its Members the obligation, to set up committees of inquiry which shall hear evidence in public. The public may be excluded.

(2) The rules of criminal procedure shall apply *mutatis mutandis* to the hearing of evidence. The privacy of correspondence, posts and telecommunications shall remain unaffected.

(3) Courts and administrative authorities shall be bound to render judicial and administrative assistance.

(4) Decisions of committees of inquiry shall not be subject to judicial review. The courts shall be free to evaluate the facts on which the inquiry is based.

Article 45 (The Committee on European Union)

The Bundestag shall appoint a Committee on European Union. It may empower the Committee to exercise the Bundestag's rights in relation to the Federal Government in accordance with Article 23.

Article 45a (The Foreign Affairs and Defence Committees)

(1) The Bundestag shall appoint a Committee on Foreign Affairs and a Committee on Defence.

(2) The Committee on Defence also has the powers of a committee of inquiry. Upon the motion of one quarter of its members it shall be obliged to investigate a specific matter.

(3) Paragraph (1) of Article 44 shall not apply to defence matters.

Article 45b

(The Parliamentary Commissioner for the Armed Forces)

A Parliamentary Commissioner shall be appointed to safeguard the basic rights of members of the Armed Forces and to assist the Bundestag in exercising parliamentary control. Details shall be the subject of a federal law.

Article 45c (The Petitions Committee)

(1) The Bundestag shall appoint a Petitions Committee to deal with requests and complaints addressed to the Bundestag pursuant to Article 17.

(2) The powers of the Committee to consider complaints shall be the subject of a federal law.

Article 46 (Indemnity and immunity)

(1) A Member may at no time be subjected to court proceedings or disciplinary action or otherwise called to account outside the Bundestag for a vote cast or a statement made in the Bundestag or any of its committees. This shall not apply to defamatory insults.

(2) A Member may not be called to account or arrested for a punishable offence except by permission of the Bundestag, unless the person concerned is apprehended in the act of committing the offence or in the course of the following day.

(3) Permission of the Bundestag shall also be necessary for any other restriction of a Member's personal liberty or for the institution of proceedings against a Member under Article 18.

(4) Any criminal proceedings or proceedings under Article 18 against a Member and any detention or other restriction of the Member's personal liberty shall be suspended if the Bundestag so demands.

Article 47 (Refusal to give evidence)

Members may refuse to give evidence concerning persons who have confided information to them in their capacity as Members of the Bundestag or to whom they themselves have confided information in that capacity, as well as evidence concerning the information itself. To the extent that this right to refuse to give evidence applies, seizure of documents shall not be permissible.

Article 48 (Entitlements of Members)

(1) All candidates for election to the Bundestag are entitled to the leave necessary for their election campaign.

(2) Nobody may be prevented from assuming and exercising the office of Member of the Bundestag. Nobody may be given notice or dismissed from their employment on this ground.

(3) Members are entitled to adequate remuneration ensuring their independence. They are entitled to use all public transport free of charge. Details shall be the subject of a federal law.

Article 49 (Repealed)

CHAPTER IV. THE BUNDESRAT

Article 50 (Function)

The Länder shall participate through the Bundesrat in the legislative process and administration of the Federation and in matters concerning the European Union.

Article 51 (Composition)

(1) The Bundesrat shall consist of members of the Land governments which appoint and recall them. Other members of their governments may serve as alternates.

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

(3) Each Land may delegate as many members as it has votes. The votes of each Land may be cast only as a block vote and only by Members present or their alternates.

Article 52 (President, rules of procedure)

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

(2) The President shall convene the Bundesrat. The President shall be obliged to do so where the delegates of at least two Länder 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 rules of procedure. Its sittings shall be public. The public may be excluded.

(3a) For matters concerning the European Union the Bundesrat may form a Chamber for European Affairs whose decisions shall be considered decisions of the Bundesrat; paragraph (2) and paragraph (3), second sentence, of Article 51 shall apply *mutatis mutandis*.

(4) Other members or representatives of the Land governments may serve on the committees of the Bundesrat.

Article 53 (Attendance of members of the Federal Government)

The members of the Federal Government have the right, and upon demand a duty, to attend sittings of the Bundesrat and its committees. They shall be heard at any time. The Bundesrat shall be kept informed by the Federal Government about the conduct of business.

CHAPTER IVa. THE JOINT COMMITTEE

Article 53a (Composition, rules of procedure)

(1) Two thirds of the Joint Committee shall be Members of the Bundestag and one third Members of the Bundesrat. The Bundestag shall delegate Members in proportion to the strengths of its parliamentary groups; they may not be members of the Federal Government. Each Land shall be represented by a Bundesrat Member of its choice; these Members shall not be bound by instructions. The establishment of the Joint Committee and its procedures shall be governed by rules of procedure to be adopted by the Bundestag and requiring the consent of the Bundesrat.

(2) The Federal Government shall inform the Joint Committee about plans to be put into effect in the event of a state of defence. The right of the Bundestag and its committees under paragraph (1) of Article 43 shall remain unaffected.

CHAPTER V. THE FEDERAL PRESIDENT

Article 54 (Election)

(1) The Federal President shall be elected by the Federal Convention without debate. Every German entitled to vote in Bundestag elections and at least forty years old is eligible.

(2) The term of office of the Federal President shall be five years. Re-election for a consecutive term shall be permitted once only.

(3) The Federal Convention shall consist of the Members of the Bundestag and an equal number of members elected by the Land parliaments on the basis of proportional representation.

(4) The Federal Convention shall convene not later than thirty days before the expiration of the term of office of the Federal President or, in the event that it is prematurely terminated, not later than thirty days after that date. It shall be convened by the President of the Bundestag.

(5) After the expiration of a legislative term the period specified in the first sentence of paragraph (4) of this Article shall begin with the first meeting of the Bundestag.

(6) The candidate receiving the votes of the majority of the members of the Federal Convention is elected. If such majority is not obtained by any candidate in two ballots the one who receives most votes in the next ballot is elected.

(7) Details shall be the subject of a federal law.

Article 55 (Debarment from other office)

(1) The Federal President may not be a member 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 nor practise a trade or profession nor belong to the management or supervisory board of an enterprise.

Article 56 (Oath of office)

On taking office the Federal President shall swear the following oath before the assembled Members of the Bundestag and the Bundesrat:

“I swear that I will dedicate my efforts to the well-being of the German people, enhance their benefits, save them from harm, uphold and defend the Basic Law and the laws of the Federation, perform my duties conscientiously, and do justice to all. So help me God.”

The oath may be sworn without the religious affirmation.

Article 57 (Deputization)

Should the Federal President be prevented from performing the duties of office or should the office become vacant prematurely those duties shall be performed by the President of the Bundesrat.

Article 58 (Countersignature)

Orders and directives of the Federal President shall require for their validity the countersignature of the Federal Chancellor or the appropriate Federal Minister. This shall not apply to the appointment and dismissal of the Federal Chancellor, the dissolution of the Bundestag under Article 63, or a request made under paragraph (3) of Article 69.

Article 59 (Representation of the Federation)

(1) The Federal President represents the Federation in its international relations. He concludes treaties with other states on its behalf. He accredits and receives envoys.

(2) Treaties which regulate the political relations of the Federation or relate to matters of federal legislation shall require the approval or participation of the appropriate legislative body in the form of a federal law. In the case of administrative agreements the provisions concerning federal administration shall apply *mutatis mutandis*.

Article 59a (Repealed)

Article 60 (Appointment and dismissal of federal judges, federal civil servants and officers of the Armed Forces; prerogative of pardon)

(1) The Federal President shall appoint and dismiss federal judges, federal civil servants and commissioned and non-commissioned officers of the Armed Forces unless otherwise provided for by law.

(2) The Federal President shall exercise the prerogative of pardon in individual cases on behalf of the Federation.

(3) These powers may be delegated to other authorities.

(4) Paragraphs (2) to (4) of Article 46 shall apply mutatis mutandis to the Federal President.

Article 61 (Impeachment before the Federal Constitutional Court)

(1) The Bundestag or the Bundesrat may impeach the Federal President before the Federal Constitutional Court for wilful violation of the Basic Law or any other federal law. The motion for impeachment must have the support of at least one quarter of the Members of the Bundestag or one quarter of the votes of the Bundesrat. It must be carried by a majority of two thirds of the Members of the Bundestag or two thirds of the votes of the Bundesrat. The impeachment shall be pleaded by a representative of the impeaching body.

(2) Should the Federal Constitutional Court find the Federal President guilty of a wilful violation of the Basic Law or any other federal law it may declare the office forfeited. After impeachment it may issue an injunction preventing the Federal President from performing the duties of office.

CHAPTER VI. THE FEDERAL GOVERNMENT

Article 62 (Composition)

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

Article 63 (Election and appointment of the Federal Chancellor)

(1) The Federal Chancellor shall be elected by the Bundestag without debate upon the proposal of the Federal President.

(2) The candidate obtaining the votes of the majority of the Members of the Bundestag is elected. The person elected shall be appointed by the Federal President.

(3) If the candidate is not elected the Bundestag may, within fourteen days of the ballot, elect a Federal Chancellor with more than one half of its Members.

(4) If no candidate has been elected within this period a new ballot shall be held without delay in which the person gaining most votes is elected. If the elected candidate has obtained the votes of the majority of the Members of the Bundestag the Federal President must make the appointment within seven days of the election. Failing that majority the Federal President shall either make the appointment or dissolve the Bundestag within seven days.

Article 64 (Appointment of Federal Ministers)

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

(2) On taking office the Federal Chancellor and the Federal Ministers shall swear before the Bundestag the oath provided for in Article 56.

Article 65 (Powers within the Federal Government)

The Federal Chancellor shall determine and be responsible for general policy guidelines. Within the limits set by these guidelines each Federal

Minister shall run his department independently and on his own responsibility. The Federal Government shall settle differences of opinion between Federal Ministers. The Federal Chancellor shall preside over the conduct of Federal Government business in accordance with rules of procedure adopted by it and approved by the Federal President.

Article 65a (Command of the Armed Forces)

Command of the Armed Forces shall be vested in the Federal Minister of Defence.

Article 66 (Debarment from other office)

The Federal Chancellor and the Federal Ministers may not hold any other salaried office nor practise a trade or profession nor belong to the management or, without the consent of the Bundestag, the supervisory board of an enterprise.

Article 67 (Constructive vote of no confidence)

(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 requesting the Federal President to dismiss the incumbent. The Federal President must comply with the request and appoint the person elected.

(2) Forty-eight hours must elapse between the motion and the vote.

Article 68 (Vote of confidence, dissolution of the Bundestag)

(1) Where a motion of the Federal Chancellor for a vote of confidence is not carried by the majority of the Members of the Bundestag the Federal President may, upon the proposal of the Federal Chancellor, dissolve the Bundestag within twenty-one days. As soon as the Bundestag elects another Federal Chancellor with the majority of its Members it may no longer be dissolved.

(2) Forty-eight hours must elapse between the motion and the vote.

Article 69 (The Deputy Federal Chancellor and members of the Federal Government)

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

(2) The tenure of office of the Federal Chancellor or a Federal Minister shall end in any event when a new Bundestag convenes, that of a Federal Minister also where the Federal Chancellor's tenure ceases for any other reason.

(3) At the request of the Federal President the Federal Chancellor, or at the request of the Federal Chancellor or of the Federal President a Federal Minister, shall be obliged to continue in office until a successor has been appointed.

CHAPTER VII. FEDERAL LEGISLATION

Article 70

(Legislative jurisdiction of the Federation and the Länder)

(1) The Länder have the right to legislate in so far as this Basic Law does not confer legislative powers on the Federation.

(2) The legislative jurisdiction of the Federation and the Länder shall be governed by the provisions of this Basic Law concerning exclusive and concurrent legislation.

Article 71 (Exclusive legislation of the Federation)

In matters of exclusive federal legislation the Länder have the right to legislate only where and to the extent that they are explicitly empowered by federal law.

Article 72 (Concurrent legislation of the Federation)

(1) In matters of concurrent legislation the Länder have the right to legislate as long as and to the extent that the Federation does not exercise its legislative powers.

(2) The Federation has the right to legislate where

1. a matter cannot be effectively regulated by the legislation of individual Länder, or
2. regulation by a Land might prejudice the interests of other Länder or the country as a whole or
3. the maintenance of legal and economic unity, especially uniform living conditions beyond the territory of any one Land, calls for federal legislation.

Article 73 (Areas of exclusive legislation)

The Federation shall have exclusive legislative jurisdiction in respect of:

1. foreign affairs and defence including protection of the civilian population;
2. citizenship in the Federation;
3. freedom of movement, passports, immigration, emigration and extradition;
4. currency, money and coinage, weights and measures, as well as standard time;
5. unity of the customs and trading area, treaties of commerce and navigation, free movement of goods, as well as international trade and payments including customs and border protection;
6. air transport;
- 6a. the operation of railways wholly or majority-owned by the Federation (federal railways), the construction, maintenance and operation of tracks of the federal railways as well as rates charged for the use of tracks;
7. postal and telecommunications services;
8. the legal status of persons employed by the Federation and federal public corporations;
9. industrial property rights, copyright and publishing;
10. cooperation between the Federation and the Länder in
 - (a) criminal police work,
 - (b) safeguarding the free democratic basic order and existence of the Federation or a Land (protection of the constitution), and
 - (c) measures to counter activities in the federal territory which through preparations for or the use of force jeopardize the external interests of the Federal Republic of Germany, as well as the establishment of a Federal Criminal Police Office and international action to combat crime;
11. statistics for federal purposes.

Article 74 (Areas of concurrent legislation)

Concurrent legislative jurisdiction shall cover:

1. civil law, criminal law and penal measures, court organization and procedure, the legal profession, notarial and legal advice services;
2. registration of births, deaths and marriages;
3. association and assembly;
4. foreigners' residence and establishment;
- 4a. weapons and explosives;
5. measures to prevent the transfer of German cultural property abroad;
6. refugees and expellees;
7. public welfare;
8. citizenship in the Länder;
9. war damage and restitution;
10. pensions for war-disabled persons and dependants of war victims as well as assistance for former prisoners of war;
- 10a. war graves and graves of other victims of war and despotism;
11. economic affairs (mining, industry, energy, crafts and trades, commerce, banking, the stock exchange system and private insurance);
- 11a. production and utilization of nuclear energy for peaceful purposes, construction and operation of facilities serving such purposes, protection against hazards arising from the release of nuclear energy or from ionizing radiation, and disposal of radioactive substances;
12. labour relations including works constitution, industrial safety, labour placement, as well as social security including unemployment insurance;
13. educational and training grants and promotion of research;
14. expropriation where applicable to the matters enumerated in Articles 73 and 74;

15. transfer of land, natural resources and means of production to public ownership or other forms of public enterprise;
16. measures to prevent abuse of economic power;
17. promotion of agricultural production and forestry, food security, import and export of agricultural and forestry products, deep-sea and coastal fishing and coastal preservation;
18. real property transactions, land law and agricultural lease, as well as housing and land settlement;
19. measures to combat communicable human and animal diseases that constitute a danger to public health, admission to the medical or ancillary professions, as well as trade in drugs, medicines, narcotics and poisons;
- 19a. economic viability of hospitals and regulation of hospital charges;
20. protective measures in connection with the marketing of food, drink and tobacco, essential commodities, feedstuffs, agricultural and forest seed and seedlings, protection of plants against diseases and pests, as well as protection of animals;
21. ocean and coastal shipping, as well as sea-marks, inland navigation, meteorological services, sea routes and inland waterways used for general traffic;
22. road traffic, motor transport, construction and maintenance of roads for long-distance traffic as well as the collection of tolls for the use of public highways and allocation of the revenue;
23. non-federal rail-bound systems, except mountain railways;
24. waste disposal, air pollution control and noise abatement.

Article 74a (Concurrent legislation of the Federation, public service pay scales and pensions)

(1) Concurrent legislation shall also extend to the pay scales and pensions of members of the public service whose status, service and loyalty are governed by public law in so far as the Federation does not have exclusive powers to legislate pursuant to Article 73 No. 8.

(2) Federal legislation pursuant to paragraph (1) of this Article shall require the consent of the Bundesrat.

(3) Federal legislation pursuant to Article 73 No. 8 shall likewise require the consent of the Bundesrat in so far as it envisages criteria for the structuring and computation of pay scales and pensions including appraisal of posts other than those provided for in federal legislation pursuant to paragraph (1) of this Article.

(4) Paragraphs (1) and (2) of this Article shall apply *mutatis mutandis* to the pay scales and pensions for Land judges. Paragraph (3) of this Article shall apply *mutatis mutandis* to legislation pursuant to paragraph (1) of Article 98.

Article 75 (Areas of federal framework legislation)

Subject to the conditions laid down in Article 72 the Federation has the right to enact framework legislation on:

1. the legal status of persons in the public service of the Länder, municipalities or other public corporations in so far as Article 74a does not provide otherwise;
 - 1a. the general principles of higher education;
2. the general legal status of the press and the film industry;
3. hunting, nature conservation and landscape management;
4. land distribution, regional planning and water management;
5. registration of residence or domicile, as well as identity documents.

Article 76 (Bills)

(1) Bills shall be presented in the Bundestag by the Federal Government, Members of the Bundestag or the Bundesrat.

(2) Bills of the Federal Government shall first be submitted to the Bundesrat. The Bundesrat is entitled to comment upon them within six weeks. Where in exceptional cases the Federal Government declares a bill to be particularly urgent it may refer it to the Bundestag three weeks after its submission to the Bundesrat even though it may not yet have received the latter's comments; upon receiving such comments it shall transmit them to the Bundestag without delay.

(3) Bills of the Bundesrat shall be submitted to the Bundestag by the Federal Government within three months. The Federal Government shall state its own opinion on them.

Article 77 (The legislative process)

(1) Bills shall be adopted by the Bundestag. After their adoption they shall be transmitted to the Bundesrat by the President of the Bundestag without delay.

(2) The Bundesrat may within three weeks of receiving the adopted bill demand that it be referred to a committee composed of Members of the Bundestag and the Bundesrat. The composition and proceedings of this committee shall be governed by rules of procedure drawn up by the Bundestag and requiring the consent of the Bundesrat. The Members of the Bundesrat on this committee shall not be bound by instructions. Where the consent of the Bundesrat is required for a bill to become law the Bundestag and the Federal Government may likewise request that it be referred to such a committee. Should the committee propose an amendment to the bill the Bundestag shall vote on it a second time.

(3) In so far as its consent is not required for a bill to become law the Bundesrat may, when the procedure described in paragraph (2) of this Article is completed, object within two weeks to a bill adopted by the Bundestag. The period for objection shall begin, in the case of the last sentence of paragraph (2) of this Article, on receipt of the bill as passed again by the Bundestag and in all other cases on receipt of a communication from the chairman of the committee provided for in paragraph (2) of this Article to the effect that the committee's proceedings have been concluded.

(4) If the objection was adopted with a majority of the votes of the Bundesrat it may be rejected by a decision of the majority of the Members of the Bundestag. If the Bundesrat adopted the objection with a majority of at least two thirds of its votes its rejection by the Bundestag shall require a majority of two thirds of the votes or at least the majority of the Members of the Bundestag.

Article 78 (Passage of federal laws)

A bill adopted by the Bundestag shall become law if the Bundesrat consents, does not request a referral as provided for in paragraph (2) of Article 77, does not enter an objection within the period stipulated in paragraph

(3) of Article 77 or withdraws its objection, or if the objection is overridden by the Bundestag.

Article 79 (Amendments to the Basic Law)

(1) This Basic Law may be amended only by a law expressly modifying or supplementing its text. In respect of international treaties concerning a peace settlement, the preparation of a peace settlement, or the phasing out of an occupation regime, or serving the defence of the Federal Republic, it shall be sufficient, in order to make clear that the provisions of this Basic Law do not preclude the conclusion and entry into force of such treaties, to supplement the text of this Basic Law and to confine the supplement to such clarification.

(2) Such law must be carried by two thirds of the Members of the Bundestag and two thirds of the votes of the Bundesrat.

(3) Amendments to this Basic Law affecting the division of the Federation into Länder, their participation in the legislative process, or the principles laid down in Articles 1 and 20 shall be prohibited.

Article 80 (Delegated legislation)

(1) The Federal Government, a Federal Minister or the Land governments may be empowered by law to issue statutory orders. The content, purpose and scope of that power shall be specified in the law. Statutory orders shall contain a reference to their legal basis. Where the law provides that the power to issue statutory orders may be further delegated another statutory order shall be required to that effect.

(2) Unless otherwise provided for by federal legislation the consent of the Bundesrat shall be required for statutory orders issued by the Federal Government or a Federal Minister concerning rules and rates governing the use of postal and telecommunications services, rules governing rates for the use of federal railways or concerning the construction and operation of railways, as well as for statutory orders issued pursuant to federal legislation requiring the consent of the Bundesrat or implemented by the Länder as agents of the Federation or in their own right.

Article 80a

(Application of legal provisions where a state of tension exists)

(1) Where this Basic Law or a federal law on defence including protection of the civilian population stipulates that legal provisions may only be applied in accordance with this Article their application shall, except where the country is in a state of defence, be admissible only after the Bundestag has confirmed that a state of tension exists or where it has specifically approved such application. Confirmation of a state of tension and specific approval in the cases mentioned in the first sentence of paragraph (5) and the second sentence of paragraph (6) of Article 12a shall require a two-thirds majority of the votes cast.

(2) Any measures taken by virtue of legal provisions pursuant to paragraph (1) of this Article shall be revoked should the Bundestag so require.

(3) In derogation of paragraph (1) of this Article the application of such legal provisions shall also be admissible by virtue of and in accordance with a decision taken by an international organization within the framework of a treaty of alliance with the approval of the Federal Government. Any measures taken pursuant to this paragraph shall be revoked should the Bundestag with the majority of its Members so require.

Article 81 (Legislative emergency)

(1) Should in the circumstances provided for in Article 68 the Bundestag not be dissolved the Federal President may at the request of the Federal Government and with the consent of the Bundesrat declare a state of legislative emergency with respect to a bill which is rejected by the Bundestag although declared urgent by the Federal Government. The same shall apply where a bill has been rejected despite the Federal Chancellor having combined it with a motion under Article 68.

(2) Where after a state of legislative emergency has been declared the Bundestag again rejects the bill or adopts a version unacceptable to the Federal Government it shall be deemed to have become law if it receives the consent of the Bundesrat. The same shall apply where the bill is not passed by the Bundestag within four weeks of its reintroduction.

(3) During the term of office of a Federal Chancellor any other bill rejected by the Bundestag may become law in accordance with paragraphs (1) and (2) of this Article within a period of six months after the first declaration of a state of legislative emergency. After the expiration of this period

no further declaration of a state of legislative emergency may be made during the term of office of the same Federal Chancellor.

(4) The Basic Law may not be amended nor repealed nor suspended in whole or in part by a law pursuant to paragraph (2) of this Article.

Article 82 (Signing, promulgation and entry into force)

(1) Laws enacted in accordance with the provisions of this Basic Law shall, after countersignature, be signed by the Federal President and promulgated in the Federal Law Gazette. Statutory orders shall be signed by the authority which issues them and, unless otherwise provided by law, promulgated in the Federal Law Gazette.

(2) Every law and statutory order should specify the day on which it enters into force. In the absence of such a provision it shall take effect on the fourteenth day after the day on which the Federal Law Gazette containing it was published.

CHAPTER VIII. IMPLEMENTATION OF FEDERAL LEGISLATION, FEDERAL ADMINISTRATION

Article 83 (Federal legislation)

The Länder shall implement federal legislation in their own right in so far as this Basic Law does not provide or permit otherwise.

Article 84 (Implementation by the Länder, supervision by the Federal Government)

(1) Where the Länder implement federal legislation in their own right they shall establish the authorities and administrative procedures in so far as federal legislation with Bundesrat consent does not provide otherwise.

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

(3) The Federal Government shall oversee the implementation of federal legislation by the Länder in accordance with applicable law. For this purpose the Federal Government may send commissioners to the supreme Land authorities and, with their approval or, where it is refused, with the consent of the Bundesrat, to subordinate authorities as well.

(4) Should any shortcomings in the implementation of federal legislation in the Länder which have been identified by the Federal Government not be rectified the Bundesrat shall decide, at the request of the Federal Government or the Land concerned, whether that Land is in breach of the law. The decision of the Bundesrat may be appealed from in the Federal Constitutional Court.

(5) With a view to implementing federal legislation the Federal Government may be empowered by a federal law requiring the consent of the Bundesrat to issue directives in special cases. They shall be addressed to the supreme Land authorities unless the Federal Government deems the matter urgent.

Article 85 (Implementation by the Länder for the Federation)

(1) Where the Länder implement federal legislation for the Federation the establishment of authorities shall remain their concern except in so far as federal legislation with the consent of the Bundesrat provides otherwise.

(2) The Federal Government may, with the consent of the Bundesrat, issue general administrative rules. It may provide for the uniform training of civil servants and other public employees. The heads of intermediate authorities shall be appointed with its approval.

(3) The Land authorities shall comply with directives from the supreme federal authorities concerned. Such directives shall be addressed to the supreme Land authorities unless the Federal Government deems the matter urgent. Compliance with directives shall be ensured by the supreme Land authorities.

(4) Federal supervision shall relate to the legality and expediency of implementation. For this purpose the Federal Government may call for reports and the submission of files and send commissioners to any authority.

Article 86 (Direct federal administration)

Where the Federation implements laws through its own administration or through federal public corporations or institutions the Federal Government shall, in so far as the law in question does not contain any specific provision in this respect, issue the general administrative rules. It shall provide for the establishment of the necessary authorities unless the law provides otherwise.

Article 87 (Areas of direct federal administration)

(1) The Foreign Service, federal financial administration, posts and telecommunications administration and, in accordance with the provisions of Article 89, administration of federal waterways and shipping shall be under the direct responsibility of the Federation and have their own organizational substructures. Federal legislation may establish Federal Border Guard authorities and central offices for police information and communications, the criminal police and compilation of data for the purpose of protecting the constitution and countering activities on federal territory which, through the use of force or preparations for it, jeopardize the external interests of the Federal Republic of Germany.

(2) Social insurance institutions whose jurisdiction extends beyond the territory of one Land shall be administered as federal public corporations.

(3) Furthermore, independent higher federal authorities as well as new federal public corporations and institutions may be established by federal law for matters falling within the legislative jurisdiction of the Federation. Where new responsibilities arise for the Federation in areas where it has the power to legislate, intermediate and lower federal authorities may, in case of urgent need, be established with the consent of the Bundesrat and the majority of the Members of the Bundestag.

Article 87a (Establishment and purpose of the Armed Forces)

(1) The Federation shall establish Armed Forces for defence purposes. Their numerical strength and general organizational structure shall be shown in the budget.

(2) Other than for defence purposes the Armed Forces may only be employed to the extent explicitly permitted by this Basic Law.

(3) When a state of defence or tension exists the Armed Forces shall be authorized to protect civilian property and perform traffic control functions to the extent necessary to fulfil their defence mission. Moreover, they may, when a state of defence or tension exists, be assigned to protect civilian property, where necessary also in support of police measures; in this event the Armed Forces shall cooperate with the appropriate authorities.

(4) Where necessary to avert an imminent danger to the existence or free democratic basic order of the Federation or a Land the Federal Government may, should the conditions referred in paragraph (2) of Article 91 prevail and the police forces and the Federal Border Guard be insufficient, employ Armed Forces to support the police and the Federal Border Guard in protecting civilian property and combating organized armed insurgents. Any such employment of Armed Forces shall be terminated if the Bundestag or the Bundesrat so requires.

Article 87b (The Federal Defence Administration)

(1) The Federal Defence Administration shall be the direct responsibility of the Federation and have its own organizational substructure. It shall be responsible for personnel and directly provide the equipment and facilities required by the Armed Forces. Responsibilities connected with the pensions of disabled persons or construction may not be assigned to the Federal Defence Administration except by federal legislation requiring

the consent of the Bundesrat. Such consent shall also be required for any legislation authorizing the Federal Defence Administration to encroach upon rights of third parties; this shall, however, not apply in the case of legislation on personnel matters.

(2) Moreover, federal laws on defence including recruitment for military service and protection of the civilian population may, with the consent of the Bundesrat, provide that they shall be implemented wholly or in part either by the Federal Defence Administration direct or the Länder on behalf of the Federation. Where such laws are implemented by the Länder on behalf of the Federation they may, with the consent of the Bundesrat, provide that the powers vested in the Federal Government or the appropriate supreme federal authorities by virtue of Article 85 shall be transferred wholly or in part to higher federal authorities; in such an event they may provide that these authorities shall not require the consent of the Bundesrat in issuing general administrative rules in accordance with the first sentence of paragraph (2) of Article 85.

Article 87c (Nuclear energy administration)

Laws enacted under Article 74 No. 11a may with the consent of the Bundesrat provide that they shall be implemented by the Länder for the Federation.

Article 87d (Air transport administration)

(1) Air transport shall be under direct federal administration. The question of public or private status shall be determined by federal legislation.

(2) Air transport administration responsibilities may be delegated to the Länder by means of federal legislation requiring the consent of the Bundesrat.

Article 87e (Privatization of federal railways)

(1) Federal rail transport shall be under direct federal administration. Rail transport administration responsibilities may be delegated to the Länder by means of federal legislation.

(2) The Federation shall discharge rail transport administration responsibilities assigned to it by federal legislation, over and above those concerning federal railways.

(3) Federal railways shall be operated as private enterprises. Such enterprises shall remain the property of the Federation to the extent that their operations include the construction, maintenance and operation of tracks. Any sale of federal shares in enterprises referred to in the second sentence shall be effected on the basis of a law; the Federation shall retain a majority holding. Details shall be the subject of federal legislation.

(4) The Federation shall ensure that in improving and maintaining tracks of the federal railways and in providing services other than local passenger rail services due account is taken of the interests and especially the transport requirements of the whole community. Details shall be the subject of federal legislation.

(5) Legislation pursuant to paragraphs (1) to (4) of this Article shall require the consent of the Bundesrat. Legislation governing the winding up, merging or splitting up of federal railway enterprises, the transfer of ownership of federal railway tracks to third parties or the closure of such tracks, or affecting local passenger rail services, shall likewise require the consent of the Bundesrat.

Article 88 (The Federal Bank)

The Federation shall establish a note-issuing and currency bank as the Federal Bank. Its responsibilities and powers may, within the framework of the European Union, be transferred to the European Central Bank, which is independent and whose primary aim is to safeguard price stability.

Article 89 (Federal waterways)

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

(2) The Federation shall manage the federal waterways through its own authorities. It shall discharge public responsibilities concerning inland navigation which extend beyond the territory of any single Land as well as those vested in it by law. Upon request the Federation may delegate the management of federal waterways, in so far as they lie within the territory of one Land, to that Land acting on its behalf. Where a waterway passes through the territory of several Länder the Federation may delegate responsibility to one Land at the request of the Länder concerned.

(3) In the management, development and construction of waterways account shall be taken of land improvement and water management requirements in agreement with the Länder.

Article 90 (Federal highways)

(1) The Federation shall be the owner of the former Reich motorways and Reich highways.

(2) The Länder or the local authorities with responsibility under Land law shall manage the motorways and other federal highways for the Federation.

(3) At the request of a Land the Federation may place motorways and other federal highways within the territory of that Land under its own administration.

Article 91 (Internal emergency)

(1) Where necessary to avert an imminent danger to the existence or free democratic basic order of the Federation or a Land, a Land may call upon the services of the police forces of other Länder or of the forces and facilities of other administrative authorities and of the Federal Border Guard.

(2) If the Land where such danger is imminent is not itself prepared or able to combat the danger the Federal Government may place the police in that Land and the police forces of other Länder under its own authority and employ units of the Federal Border Guard. The relevant order shall be cancelled when the danger has been removed, otherwise at any time at the request of the Bundesrat. Where the danger extends to a region larger than a Land the Federal Government may, to the extent necessary to combat the danger effectively, issue directives to the Land governments; the first and second sentences of this paragraph shall not be affected by this provision.

CHAPTER VIIIa. JOINT RESPONSIBILITIES

Article 91a (Participation of the Federation)

(1) The Federation shall participate in discharging the responsibilities of the Länder in the following areas provided that they are relevant to the community as a whole and that its participation is necessary in order to improve living conditions (joint responsibilities):

1. building and extension of institutions of higher education including university clinics;
2. improvement of regional economic structures;
3. improvement of agricultural structure and coastal preservation.

(2) Joint responsibilities shall be specified by federal law requiring the consent of the Bundesrat. Such legislation should include general principles governing the discharge of responsibilities.

(3) The law shall provide for the procedure and institutions for joint overall planning. The inclusion of a project in overall planning shall require the consent of the Land in which it is to be carried out.

(4) In cases to which sub-paragraphs 1 and 2 of paragraph (1) of this Article apply the Federation shall meet one half of the expenditure in each Land. In cases to which sub-paragraph 3 of paragraph (1) of this Article applies the Federation shall meet at least one half of the expenditure; the proportion shall be the same for all Länder. Details shall be the subject of a law. Provision of funds shall be subject to appropriation in the budgets of the Federation and the Länder.

(5) The Federal Government and the Bundesrat shall, upon request, be informed about the discharge of joint responsibilities.

Article 91b (Cooperation between the Federation and the Länder)

The Federation and the Länder may, pursuant to agreements, cooperate in educational planning and in the promotion of research institutions and projects of supraregional importance. The apportionment of costs shall be regulated by the relevant agreements.

CHAPTER IX. ADMINISTRATION OF JUSTICE

Article 92 (Judicial power)

Judicial power shall be vested in the judges; it shall be exercised by the Federal Constitutional Court, the federal courts provided for in this Basic Law, and the courts of the Länder.

Article 93 (The Federal Constitutional Court, jurisdiction)

(1) The Federal Constitutional Court shall rule:

1. on the interpretation of this Basic Law in disputes concerning the extent of the rights and obligations of a supreme federal institution or other institutions concerned who have been vested with rights of their own by this Basic Law or by the rules of procedure of a supreme federal institution;
2. in case of disagreement or doubt as to the formal and material compatibility of federal or Land legislation with this Basic Law or as to the compatibility of Land legislation with other federal legislation at the request of the Federal Government, a Land government or one third of the Members of the Bundestag;
3. in case of disagreement on the rights and obligations of the Federation and the Länder, particularly in the implementation of federal legislation by the Länder and in the exercise of federal supervision;
4. on other disputes involving public law between the Federation and the Länder, between Länder or within a Land, unless recourse to another court exists;
 - 4a. on constitutional complaints which may be filed by anybody claiming that one of their basic rights or one of their rights under paragraph (4) of Article 20 or under Article 33, 38, 101, 103 or 104 has been violated by public authority;
 - 4b. on constitutional complaints by municipalities or associations of municipalities alleging violation of their right of self-government under Article 28 by a (federal) law; in case of violation by a Land law, however, only where a complaint cannot be lodged with the Land constitutional court;
5. in the other cases provided for in this Basic Law.

(2) The Federal Constitutional Court shall also rule on any other cases referred to it by federal legislation.

Article 94 (The Federal Constitutional Court, composition)

(1) The Federal Constitutional Court shall be composed of federal judges and other members. Half of the members of the Federal Constitutional Court shall be elected by the Bundestag and half by the Bundesrat. They may not be members of the Bundestag, the Bundesrat, the Federal Government, nor of any of the corresponding institutions of a Land.

(2) The constitution and procedure of the Federal Constitutional Court shall be governed by a federal law which shall specify the cases in which its decisions have the force of law. Such law may make a complaint of unconstitutionality conditional upon the exhaustion of all other legal remedies and provide for a special admissibility procedure.

Article 95 (Supreme federal courts, joint panel)

(1) For the purposes of ordinary, administrative, financial, labour and social jurisdiction the Federation shall establish as supreme courts the Federal Court of Justice, the Federal Administrative Court, the Federal Finance Court, the Federal Labour Court and the Federal Social Court.

(2) The judges of each of these courts shall be selected jointly by the appropriate Federal Minister and a selection committee composed of the appropriate Land ministers and an equal number of members elected by the Bundestag.

(3) In order to ensure uniformity in the administration of justice a joint panel of the courts specified in paragraph (1) of this Article shall be formed. Details shall be the subject of a federal law.

Article 96 (Other federal courts, exercise of federal jurisdiction by courts of the Länder)

(1) The Federation may establish a federal court for matters concerning industrial property rights.

(2) The Federation may establish military criminal courts for the Armed Forces as federal courts. They may only exercise criminal jurisdiction

while a state of defence exists and otherwise only over members of the Armed Forces serving abroad or on board warships. Details shall be the subject of a federal law. Such courts shall be under the jurisdiction of the Federal Minister of Justice. Their full-time judges shall be people qualified to hold judicial office.

(3) The supreme court for appeals from the courts mentioned in paragraphs (1) and (2) of this Article shall be the Federal Court of Justice.

(4) The Federation may establish federal courts for disciplinary proceedings against, and for proceedings in pursuance of complaints by, members of the federal public service.

(5) In respect of criminal proceedings under paragraph (1) of Article 26 or concerning national security a federal law requiring the consent of the Bundesrat may make provision for Land courts to exercise federal jurisdiction.

Article 97 (Independence of judges)

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

(2) Judges appointed to full-time, permanent posts cannot, against their will, be dismissed or permanently or temporarily suspended or transferred or retired before the expiration of their term of office except by virtue of a judicial decision and only on the grounds and in the form provided for by law. Legislation may set age limits for the retirement of judges appointed for life. In the event of changes in the structure of courts or their districts judges may be transferred to another court or removed from office, but only on full salary.

Article 98 (Status of federal and Land judges)

(1) The status of federal judges shall be the subject of a special federal law.

(2) Where a federal judge, in an official capacity or unofficially, infringes the principles of this Basic Law or the constitutional order of a Land the Federal Constitutional Court may, upon the request of the Bundestag and with a two-thirds majority, order the judge's transfer or retirement. If the infringement was deliberate it may order dismissal.

(3) The status of Land judges shall be governed by specific Land legislation. The Federation may enact framework legislation in so far as paragraph (4) of Article 74a does not provide otherwise.

(4) The Länder may provide that the Land Minister of Justice together with a selection committee shall decide on the appointment of Land judges.

(5) In respect of Land judges the Länder may make provision corresponding to that described in paragraph (2) of this Article. Land constitutional law shall remain unaffected. The ruling in a case of impeachment of a judge shall rest with the Federal Constitutional Court.

Article 99 (Rulings of the Federal Constitutional Court and the supreme federal courts in disputes concerning Land legislation)

Rulings on constitutional disputes within a Land may be referred by Land legislation to the Federal Constitutional Court and rulings at last instance in matters involving the application of Land law to the supreme courts referred to in paragraph (1) of Article 95.

Article 100 (Compatibility of legislation and constitutional law)

(1) Where a court considers that a law on whose validity its ruling depends is unconstitutional it shall stay the proceedings and, if it holds the constitution of a Land to be violated, seek a ruling from the Land court with jurisdiction for constitutional disputes or, where it holds this Basic Law to be violated, from the Federal Constitutional Court. This shall also apply where this Basic Law is held to be violated by Land law or where a Land law is held to be incompatible with a federal law.

(2) Where in the course of litigation doubt exists whether a rule of international law is an integral part of federal law and whether such rule directly establishes rights and obligations for the individual (Article 25), the court shall seek a ruling from the Federal Constitutional Court.

(3) Where in interpreting this Basic Law the constitutional court of a Land proposes to deviate from a ruling of the Federal Constitutional Court or of the constitutional court of another Land it shall seek a ruling from the Federal Constitutional Court.

Article 101 (Inadmissibility of courts with special jurisdiction)

- (1) Courts with special jurisdiction shall be inadmissible. Nobody may be removed from the jurisdiction of their lawful judge.
- (2) Courts for specific matters may be established only by law.

Article 102 (Abolition of capital punishment)

Capital punishment is abolished.

Article 103 (Court hearings, inadmissibility of retroactive criminal legislation and double jeopardy)

- (1) In court everybody is entitled to a hearing in accordance with the law.
- (2) An act may be punished only if it constituted a criminal offence under the law before the act was committed.
- (3) Nobody may be punished for the same act more than once under general criminal legislation.

Article 104 (Legal guarantees in the event of detention)

- (1) Individual liberty may be restricted only pursuant to a formal law and only in the manner it prescribes. Detainees may not be subjected to mental or physical ill-treatment.
- (2) Only a judge may decide on the admissibility or continuation of detention. Where such detention is not based on the order of a judge a judicial ruling shall be obtained without delay. The police may not hold anybody on their own authority longer than the end of the day after the arrest. Details shall be the subject of legislation.
- (3) Anybody provisionally detained on suspicion of having committed a criminal offence shall be brought before a judge not later than the day after their detention; the judge shall inform them of the reasons for their detention, question them and allow them to plead. The judge shall forthwith either issue a warrant for their arrest containing the reasons or order their release.

(4) A relative or somebody enjoying the confidence of the detainee shall be notified without delay of any judicial ruling imposing or ordering the continuation of detention.

CHAPTER X. FINANCE

Article 104a (Apportionment of expenditure between the Federation and the Länder)

(1) The Federation and the Länder shall separately finance expenditure resulting from the discharge of their respective responsibilities in so far as this Basic Law does not provide otherwise.

(2) Where the Länder act for the Federation the latter shall finance the resulting expenditure.

(3) Federal laws to be implemented by the Länder and involving the disbursement of funds may provide that such funds shall be contributed wholly or in part by the Federation. Where the law provides that the Federation shall meet one half of the expenditure or more the Länder shall implement it for the Federation. Where it provides that the Länder shall finance one quarter of the expenditure or more it shall require the consent of the Bundesrat.

(4) The Federation may grant the Länder financial assistance for major investments by them and municipalities (associations of municipalities) provided they are necessary to avert a disturbance of overall economic equilibrium or to equalize differing economic capacities within the federal territory or promote economic growth. Details, especially concerning the kinds of investments to be promoted, shall be the subject of federal legislation requiring the consent of the Bundesrat or administrative arrangements under the Federal Budget Act.

(5) The Federation and the Länder shall finance the administrative expenditure incurred by their respective authorities and be responsible to each other for ensuring proper administration. Details shall be the subject of a federal law requiring the consent of the Bundesrat.

Article 105 (Legislative powers)

(1) The Federation shall have exclusive power to legislate on customs duties and fiscal monopolies.

(2) The Federation shall have concurrent power to legislate on all other taxes the revenue from which accrues to it wholly or in part or where the conditions provided for in paragraph (2) of Article 72 apply.

(2a) The Länder shall have power to legislate on local excise taxes as long and in so far as they are not identical with taxes imposed by federal legislation.

(3) Federal legislation on taxes the revenue from which accrues wholly or in part to the Länder or municipalities (associations of municipalities) shall require the consent of the Bundesrat.

Article 106 (Apportionment of tax revenue)

(1) The yield of fiscal monopolies and the revenue from the following taxes shall accrue to the Federation:

1. customs duties;
2. excise taxes in so far as they do not accrue to the Länder pursuant to paragraph (2) or jointly to the Federation and the Länder in accordance with paragraph (3) or to the municipalities in accordance with paragraph (6) of this Article;
3. road freight tax;
4. capital transaction taxes, insurance tax and tax on bills of exchange;
5. non-recurrent levies on property and equalization of burdens levies;
6. income and corporation surtaxes;
7. levies within the framework of the European Communities.

(2) Revenue from the following taxes shall accrue to the Länder:

1. property (net worth) tax;
2. inheritance tax;
3. motor vehicle tax;
4. such taxes on transactions as do not accrue to the Federation pursuant to paragraph (1) of this Article or jointly to the Federation and the Länder pursuant to paragraph (3) of this Article;
5. beer tax;
6. tax on gambling establishments.

(3) Revenue from income tax, corporation tax and turnover tax shall accrue jointly to the Federation and the Länder (joint taxes) to the extent that the revenue from income tax is not allocated to the municipalities pursuant to paragraph (5) of this Article. The Federation and the Länder shall share equally the revenue from income tax and corporation tax. The respective shares of the Federation and the Länder in the revenue from turnover tax shall be determined by federal legislation requiring the consent of the Bundesrat. Such determination shall be based on the following principles:

1. The Federation and the Länder shall have an equal claim to funds from current revenue to finance their necessary expenditure. The amount of such expenditure shall be determined on the basis of pluriennial financial planning.
2. The requirements of the Federation and the Länder shall be coordinated to establish a fair balance, to prevent excessive burdens on the taxpayer, and to ensure equal living conditions in the federal territory.

(4) The respective shares of the Federation and the Länder in turnover tax revenue shall be reapportioned whenever the ratio of revenue to expenditure differs substantially as between the Federation and the Länder. Where federal legislation imposes additional expenditure on or withdraws revenue from the Länder the additional burden may be compensated by federal grants pursuant to a federal law requiring the consent of the Bundesrat provided that burden is limited to a short period. The law shall lay down the principles for computing such grants and distributing them among the Länder.

(5) A share of the revenue from income tax shall accrue to the municipalities and shall be passed on by the Länder to their municipalities on the basis of the income tax paid by their population. Details shall be the subject of a federal law requiring the consent of the Bundesrat. The law may provide that the municipalities shall assess their respective proportions of this share.

(6) Revenue from tax on real property and trade shall accrue to the municipalities; revenue from local excise taxes shall accrue to the municipalities or, as may be provided for by Land legislation, to associations of municipalities. The municipalities shall be authorized to assess their real property and trade tax within the framework of existing legislation. Where a Land has no municipalities revenue from real property and trade tax as well as from local excise taxes shall accrue to the Land. The Federation and the Länder are entitled to a proportion of the revenue from trade tax in

the form of an apportionment. Details regarding such apportionment shall be the subject of a federal law requiring the consent of the Bundesrat. In accordance with Land legislation real property and trade tax as well as the municipalities' share of revenue from income tax may be taken as a basis for computing the apportionment.

(7) An overall percentage, to be determined by Land legislation, of the Land share of total revenue from joint taxes shall accrue to the municipalities and associations of municipalities. In all other respects Land legislation shall determine whether and to what extent revenue from Land taxes shall accrue to the municipalities (associations of municipalities).

(8) Where in individual Länder or municipalities (associations of municipalities) the Federation requires special facilities to be provided which directly result in increased expenditure or loss of revenue (extra burden) for those Länder or municipalities (associations of municipalities) the Federation shall grant the necessary compensation where and in so far as they cannot reasonably be expected to bear that burden. In granting such compensation due account shall be taken of indemnities of third parties and financial benefits accruing to the Länder or municipalities (associations of municipalities) concerned as a result of the provision of such facilities.

(9) For the purpose of this Article revenue and expenditure of municipalities (associations of municipalities) shall likewise be deemed Land revenue and expenditure.

Article 106a (Tax allocation for local passenger transport services)

As from 1 January 1996 the Länder shall be entitled to an allocation from federal tax revenue for public local passenger transport services. Details shall be the subject of federal legislation which shall require the consent of the Bundesrat. The allocation provided for in the first sentence of this Article shall not be taken into account in assessing financial capacity in accordance with paragraph (2) of Article 107.

Article 107 (Financial equalization)

(1) Revenue from Land tax and the Land share of revenue from income and corporation tax shall accrue to the Länder to the extent that the taxes are collected by the revenue authorities in their respective territories (local revenue). Federal legislation requiring the consent of the Bundesrat shall

specify the breakdown of local revenue from corporation and wage tax as well as the method and extent of its allocation. Such legislation may also provide for the breakdown and allocation of local revenue from other taxes. The Land share of revenue from turnover tax shall accrue to the Länder on a per capita basis; federal legislation requiring the consent of the Bundesrat may provide for supplemental shares not exceeding one quarter of a Land share to be granted to Länder whose per capita revenue from Land taxes and from income and corporation tax is below the average of all the Länder combined.

(2) Such legislation shall ensure a reasonable equalization of the financial disparity of the Länder, due account being taken of the financial capacity and requirements of the municipalities (associations of municipalities). The legislation shall specify the conditions governing the claims of Länder entitled to equalization payments and the liabilities of Länder required to make such payments, as well as the criteria for determining the amounts. It may also provide for federal grants to be made to financially weak Länder in order to complement the coverage of their general financial requirements (complemental grants).

Article 108 (Financial administration)

(1) Customs duties, fiscal monopolies, excise taxes subject to federal legislation, including import turnover tax, and levies imposed within the framework of the European Communities shall be administered by federal revenue authorities. The organization of these authorities shall be regulated by federal legislation. The heads of intermediate authorities shall be appointed in consultation with the respective Land governments.

(2) All other taxes shall be administered by Land revenue authorities. The organization of these authorities and the uniform training of their civil servants may be regulated by federal legislation requiring the consent of the Bundesrat. The heads of intermediate authorities shall be appointed in agreement with the Federal Government.

(3) To the extent that taxes accruing wholly or in part to the Federation are administered by Land revenue authorities, the latter shall act on behalf of the Federation. Paragraphs (3) and (4) of Article 85 shall apply, the Federal Minister of Finance being substituted for the Federal Government.

(4) Federal legislation requiring the consent of the Bundesrat may provide for cooperation between federal and Land revenue authorities on matters of tax administration, in the case of taxes covered by paragraph (1)

of this Article for administration by Land revenue authorities, and in the case of other taxes for administration by federal revenue authorities where and to the extent that this considerably improves or facilitates the implementation of tax laws. The administration of taxes the revenue from which accrues exclusively to the municipalities (associations of municipalities) may be delegated by the Land revenue authorities wholly or in part to the municipalities (associations of municipalities).

(5) The procedure to be applied by the federal revenue authorities shall be laid down by federal legislation. The procedure to be applied by Land revenue authorities or, as provided for in the second sentence of paragraph (4) of this Article, by the municipalities (associations of municipalities) may be laid down by federal legislation requiring the consent of the Bundesrat.

(6) Financial jurisdiction shall be uniformly regulated by federal legislation.

(7) The Federal Government may issue general administrative rules which, to the extent that administration is entrusted to Land revenue authorities or municipalities (associations of municipalities), shall require the consent of the Bundesrat.

Article 109 (Budgets of the Federation and the Länder)

(1) In their budget management the Federation and the Länder shall be autonomous and mutually independent.

(2) In their budget management the Federation and the Länder shall take account of the requirements of macroeconomic equilibrium.

(3) Through federal legislation requiring the consent of the Bundesrat principles applicable to both the Federation and the Länder may be established governing budgetary law, budget management reflecting the economic situation, and pluriennial financial planning.

(4) With a view to averting disturbances of macroeconomic equilibrium federal legislation requiring the consent of the Bundesrat may be enacted which:

1. provides for maximum amounts, terms and timing of loans raised by local authorities or joint authorities and

2. obliges the Federation and the Länder to maintain interest-free deposits at the German Federal Bank (anticyclical reserves).

Only the Federal Government may be empowered to issue statutory orders. Such orders shall require the consent of the Bundesrat. They shall be repealed if the Bundestag so requires; the details shall be contained in the legislation.

Article 110 (Budget, Federal Budget Act)

(1) All federal revenue and expenditure shall be included in the budget; in the case of federal enterprises and special funds only allocations to and revenue from them need be included. Budget revenue and expenditure shall be balanced.

(2) The budget shall be laid down in a bill covering one or several financial years separately before the beginning of the first year. Provision may be made for parts of the budget to apply to periods of different duration for different financial years.

(3) The bill provided for in the first sentence of paragraph (2) of this Article as well as bills amending the Budget Act and the budget shall be submitted simultaneously to the Bundesrat and the Bundestag; the Bundesrat shall be entitled to state its position on bills within six weeks or, in the case of amending bills, within three weeks.

(4) The Budget Act may contain only such provisions as apply to federal revenue and expenditure and to the period for which it is being enacted. The Budget Act may stipulate that such provisions shall cease to apply only upon the promulgation of the next Budget Act or, in the event of an empowerment pursuant to Article 115, at a later date.

Article 111 (Provisional budget expenditure)

(1) Where by the end of a financial year the budget estimates for the following year have not been determined by law the Federal Government may, until such law comes into force, authorize all expenditure necessary:

- (a) to maintain statutory institutions and implement statutory measures,
- (b) to meet the legal obligations of the Federation,

- (c) to continue building projects, procurements and other services or to continue to disburse funds for these purposes provided they have already been appropriated in the budget of a previous year.

(2) To the extent that revenue from taxes, duties and other sources based on specific legislation, or the working capital reserves, do not cover the expenditure referred to in paragraph (1) of this Article the Federal Government may borrow the funds needed to sustain budget management, up to a maximum of one quarter of the total amount of the preceding budget estimates.

Article 112 (Extrabudgetary expenditure)

Extrabudgetary expenditure shall require the consent of the Federal Minister of Finance. Such consent may be given only in the case of an unforeseen and compelling necessity. Details may be provided by federal legislation.

Article 113 (Expenditure increases, revenue cuts)

(1) Bills which increase the budget expenditure proposed by the Federal Government or involve or will give rise to new expenditure shall require the consent of the Federal Government. This shall also apply to bills which involve or will give rise to cuts in revenue. The Federal Government may require the Bundestag to postpone the vote on such bills. In this case the Federal Government shall state its position within six weeks.

(2) Within four weeks after the Bundestag has adopted the bill the Federal Government may ask for another vote.

(3) Where the bill has become law pursuant to Article 78 the Federal Government may withhold its consent only within six weeks and only after having initiated the procedure provided for in the third and fourth sentences of paragraph (1) or in paragraph (2) of the present Article. Upon the expiry of this period such consent shall be deemed to have been given.

Article 114 (Auditing)

(1) The Federal Minister of Finance shall, on behalf of the Federal Government, submit to the Bundestag and the Bundesrat annual accounts for the preceding financial year covering all revenue and expenditure as well as assets and debts.

(2) The Federal Court of Audit, whose members enjoy the same independence as judges, shall audit the accounts and determine whether public finances have been properly and efficiently administered. The Federal Court of Audit shall submit an annual report to the Federal Government as well as to the Bundestag and the Bundesrat direct. In all other respects the powers of the Federal Court of Audit shall be regulated by federal legislation.

Article 115 (Borrowing)

(1) The borrowing of funds and the assumption of sureties, guarantees or other commitments which may lead to expenditure in future financial years shall require an empowerment by federal law specifying or providing for the specification of the amounts involved. Revenue from borrowing shall not exceed the total expenditure for investment provided for in the budget estimates; exceptions shall be permissible only to avert a disturbance of macroeconomic equilibrium. Details shall be the subject of federal legislation.

(2) In respect of special federal funds exceptions to the provisions of paragraph (1) of this Article may be authorized by federal legislation.

CHAPTER Xa. STATE OF DEFENCE

Article 115a (Definition and declaration of a state of defence)

(1) Should federal territory be under armed attack or should such an attack be imminent the Bundestag shall declare a state of defence with the consent of the Bundesrat. Such declaration shall be made at the request of the Federal Government and shall require a two-thirds majority of the votes cast and at least the majority of the Members of the Bundestag.

(2) Where the situation calls for immediate action and insurmountable obstacles make it impossible for the Bundestag to be convened in time or it is not quorate, the Joint Committee shall make the declaration with a two-thirds majority of the votes cast and at least the majority of its members.

(3) The declaration shall be promulgated by the Federal President in the Federal Law Gazette pursuant to Article 82. If this cannot be done in time the promulgation shall be effected in another manner; it shall be published in the Federal Law Gazette as soon as circumstances permit.

(4) Where federal territory is under armed attack and the appropriate federal bodies are not immediately in a position to make the declaration provided for in the first sentence of paragraph (1) of this Article such declaration shall be deemed to have been made and promulgated at the time the attack began. The Federal President shall announce that time as soon as circumstances permit.

(5) Where the declaration of a state of defence has been promulgated and federal territory is under armed attack the Federal President may with the consent of the Bundestag issue declarations under international law pertaining to the existence of a state of defence. Where the conditions mentioned in paragraph (2) of this Article apply the Joint Committee shall act in place of the Bundestag.

Article 115b (Transfer of command to the Federal Chancellor)

Upon the promulgation of a state of defence command over the Armed Forces shall pass to the Federal Chancellor.

Article 115c (Extension of the legislative powers of the Federation)

(1) The right of the Federation to legislate concurrently in respect of a state of defence shall also extend to matters within the legislative jurisdiction of the Länder. Such legislation shall require the consent of the Bundesrat.

(2) Where the conditions prevailing while the country is in a state of defence so require, federal legislation in respect of the state of defence may,

1. in derogation of the second sentence of paragraph (3) of Article 14, provide for provisional compensation in the event of expropriation,
2. with regard to detention, provide in cases where a judge has not been able to perform his functions within the time-limit applying in normal circumstances for a time-limit differing from that stipulated in the third sentence of paragraph (2) of Article 104 but not exceeding four days.

(3) Where necessary to repel an attack already in progress or imminent federal legislation for a state of defence may, subject to the consent of the Bundesrat, regulate the administration and finances of the Federation and the Länder in derogation of Chapters VIII, VIIIa and X, provided that the viability of the Länder, municipalities and associations of municipalities, especially in financial terms, is secured.

(4) Federal legislation pursuant to paragraph (1) or sub-paragraph 1 of paragraph (2) of this Article may for the purpose of preparing for its enforcement be applied even before a state of defence exists.

Article 115d (Procedure in the case of urgent bills)

(1) While a state of defence exists the provisions of paragraphs (2) and (3) of this Article shall apply in respect of federal legislation, in derogation of the provisions of paragraph (2) of Article 76, the second sentence of paragraph (1) and paragraphs (2) to (4) of Article 77, Article 78, and paragraph (1) of Article 82.

(2) Urgent bills submitted by the Federal Government shall be forwarded to the Bundesrat at the same time as they are presented in the Bundestag. The Bundestag and the Bundesrat shall debate the bill simultaneously without delay. In so far as the consent of the Bundesrat is necessary a

majority shall be required for the bill to become law. Details shall be the subject of rules of procedure adopted by the Bundestag and requiring the consent of the Bundesrat.

(3) With regard to the promulgation of such legislation the second sentence of paragraph (3) of Article 115a shall apply *mutatis mutandis*.

Article 115e (Powers of the Joint Committee)

(1) Where, while a state of defence exists, the Joint Committee determines with a two-thirds majority of the votes cast and at least the majority of its members that insurmountable obstacles make it impossible for the Bundestag to be convened in time or that it is not quorate, the Committee shall have the status of both the Bundestag and the Bundesrat and exercise their rights as one body.

(2) The Joint Committee may not enact any legislation amending this Basic Law or rendering it ineffective or inapplicable either in whole or in part. The Joint Committee shall not be empowered to enact legislation pursuant to paragraph (1), second sentence, of Article 23, paragraph (1) of Article 24 or Article 29.

Article 115f (Powers of the Federal Government)

(1) While a state of defence exists the Federal Government may, to the extent necessitated by circumstances,

1. employ the Federal Border Guard throughout the federal territory;
2. issue directives not only to federal administrative authorities but also to Land governments and, where it deems the matter urgent, to Land authorities and may delegate this power to members of Land governments designated by it.

(2) The Bundestag, the Bundesrat and the Joint Committee shall be informed without delay of the measures taken in accordance with paragraph (1) of this Article.

Article 115g (Status of the Federal Constitutional Court)

The status and constitutional functions of the Federal Constitutional Court and its judges may not be impaired. The Federal Constitutional Court Act

may not be amended by legislation enacted by the Joint Committee except where such amendment is deemed necessary to ensure that the Court can continue to function and the Court shares this opinion. Pending the enactment of such legislation the Federal Constitutional Court may take any measures necessary to continue functioning. Any decisions by the Federal Constitutional Court in pursuance of the second and third sentences of this Article shall require a majority of the judges present.

Article 115h (Continued functioning of constitutional bodies)

(1) Any legislative term of the Bundestag or of Land parliaments due to expire while a state of defence exists shall end six months after the termination of such state of defence. A term of office of the Federal President due to expire while a state of defence exists and the exercise of the powers of that office by the President of the Bundesrat should it prematurely become vacant shall end nine months after the termination of the state of defence. The term of office of a member of the Federal Constitutional Court due to expire while a state of defence exists shall end six months after the termination of the state of defence.

(2) Should it become necessary for the Joint Committee to elect a new Federal Chancellor it shall do so with the majority of its members; the Federal President shall propose a candidate to the Joint Committee. The Joint Committee may express its lack of confidence in the Federal Chancellor only by electing a successor with a two-thirds majority of its members.

(3) The Bundestag may not be dissolved while a state of defence exists.

Article 115i (Powers of the Land governments)

(1) Where the appropriate federal bodies are incapable of taking the measures necessary to avert the danger and the situation calls for immediate independent action in different parts of the federal territory the Land governments or the authorities or representatives designated by them shall be empowered to take within their area of jurisdiction the measures provided for in paragraph (1) of Article 115f.

(2) Any measures taken in accordance with paragraph (1) of this Article may be revoked at any time by the Federal Government or, in relation to Land authorities and subordinate federal authorities, by the Ministers President of the Länder.

Article 115k (Extraordinary legislation)

(1) Legislation in accordance with Articles 115c, 115e or 115g as well as statutory orders issued on the basis of that legislation shall, for the duration of their validity, suspend incompatible legislation. This shall not apply to earlier legislation enacted in accordance with Articles 115c, 115e or 115g.

(2) Legislation adopted by the Joint Committee as well as statutory orders issued on the basis of that legislation shall cease to have effect not later than six months after the termination of the state of defence.

(3) Legislation containing provisions that diverge from Articles 91a, 91b, 104a, 106 or 107 shall apply no longer than the end of the second financial year following the termination of the state of defence. After such termination they may with the consent of the Bundesrat be amended by federal legislation so as to revert to the provisions of Chapters VIIIa and X.

Article 115l (Repeal of extraordinary legislation, termination of a state of defence, peace treaty)

(1) The Bundestag, with the consent of the Bundesrat, may at any time repeal legislation enacted by the Joint Committee. The Bundesrat may require the Bundestag to adopt a resolution to this effect. Any measures taken by the Joint Committee or the Federal Government to avert danger shall be revoked if the Bundestag and the Bundesrat so resolve.

(2) The Bundestag, with the consent of the Bundesrat, may at any time declare a state of defence terminated in the form of a resolution to be promulgated by the Federal President. The Bundesrat may require the Bundestag to adopt such resolution. A state of defence shall be declared terminated without delay if the conditions which led to its being declared no longer exist.

(3) The conclusion of a peace treaty shall be the subject of federal legislation.

CHAPTER XI. TRANSITIONAL AND CONCLUDING PROVISIONS

Article 116 (Definition of "a German", restoration of citizenship)

(1) Unless otherwise provided by law a German within the meaning of this Basic Law is anybody who possesses German citizenship or who has been admitted to the territory of the German Reich within the frontiers of 31 December 1937 as a refugee or expellee of German ethnic origin or as their spouse or descendant.

(2) Former German citizens who between 30 January 1933 and 8 May 1945 were deprived of their citizenship on political, racial or religious grounds, and their descendants, shall have that citizenship restored on application. They shall be considered not to have been deprived of their citizenship if they have established their residence in Germany after 8 May 1945 and have not expressed a different intention.

Article 117 (Temporary ruling for Article 3 (2) and Article 11)

(1) Legislation which is inconsistent with paragraph (2) of Article 3 shall remain in force until adapted to that provision of the Basic Law but not beyond 31 March 1953.

(2) Legislation which restricts freedom of movement in view of the present housing shortage shall remain in force until repealed by federal legislation.

Article 118 (Modification of Land boundaries in the south-west)

Boundaries in the territory comprising the Länder Baden, Württemberg-Baden and Württemberg-Hohenzollern may in derogation of the provisions of Article 29 be modified by agreement between the Länder concerned. If no agreement is reached the modification shall be effected by federal legislation which shall provide for a referendum.

Article 119 (Statutory orders relating to refugees and expellees)

In matters relating to refugees and expellees, in particular as regards their distribution among the Länder, the Federal Government may, with the

consent of the Bundesrat, issue statutory orders pending enactment of the appropriate federal legislation. The Federal Government may be empowered to issue directives for particular cases. Except where there is danger in delay, such directives shall be addressed to the supreme Land authorities.

Article 120 (Occupation costs and war burdens)

(1) The Federation shall meet occupation costs and other internal and external burdens resulting from the war as provided for by federal legislation. To the extent that such burdens have been covered by federal legislation on or before 1 October 1969 the Federation and the Länder shall meet such expenditure between them in accordance with that legislation. In so far as expenditure on war burdens as neither have been nor will be covered by federal legislation has been incurred on or before 1 October 1965 by Länder, municipalities (associations of municipalities) or other institutions performing Land or municipal functions the Federation shall not be obliged to meet such expenditure either before or after that date. The Federation shall make grants towards the cost of social security including unemployment insurance and unemployment benefit. The distribution of war burdens between the Federation and the Länder, as provided for in this paragraph, shall not affect any statutory regulation of claims for compensation in respect of consequences of the war.

(2) Revenue shall pass to the Federation at the same time as it assumes the expenditure referred to in this Article.

Article 120a (Implementation of the equalization of burdens regime)

(1) Legislation implementing the equalization of burdens regime may, with the consent of the Bundesrat, stipulate that with regard to equalization benefits it shall be implemented, partly by the Federation and partly by the Länder on behalf of the Federation and that the powers vested in the Federal Government and the appropriate supreme federal authorities by virtue of Article 85 shall be wholly or partly delegated to the Federal Equalization of Burdens Office. In exercising these powers the Federal Equalization of Burdens Office shall not require the consent of the Bundesrat; except in urgent cases its directives shall be addressed to the supreme Land authorities (equalization of burdens offices).

(2) The provisions of the second sentence of paragraph (3) of Article 87 shall not be affected.

Article 121 (Definition of “majority of the Members”)

Within the meaning of this Basic Law a majority of the Members of the Bundestag and a majority of the members of the Federal Convention shall be the majority of the statutory number of their members.

Article 122 (Transference of legislative powers)

(1) From the date of the first meeting of the Bundestag laws shall be enacted exclusively by the legislative bodies specified in this Basic Law.

(2) Legislative bodies as well as those institutions participating in legislation in an advisory capacity whose jurisdiction ends by virtue of paragraph (1) of this Article shall be dissolved with effect from that date.

Article 123 (Continued validity of old law and treaties)

(1) Law in force before the first meeting of the Bundestag shall remain in force in so far as it does not conflict with the Basic Law.

(2) Subject to all rights and objections of the interested parties the treaties concluded by the German Reich concerning matters which under this Basic Law fall within the legislative jurisdiction of the Länder shall remain in force, provided they are and continue to be valid in accordance with general principles of law, until new treaties are concluded by the authorities competent under this Basic Law or they are in any other way terminated pursuant to their provisions.

Article 124 (Continued application of law as federal law within the sphere of exclusive legislation)

Law affecting matters within the exclusive legislative powers of the Federation shall become federal law in the area in which it applies.

Article 125 (Continued application of law as federal law within the sphere of concurrent legislation)

Law affecting matters within the concurrent legislative power of the Federation shall become federal law in the area in which it applies:

1. in so far as it applies uniformly within one or more occupation zones;
2. in so far as it is legislation by which former Reich law has been amended since 8 May 1945.

Article 126

(Disputes over the continued application of legislation as federal law)

Disputes over the continued application of legislation as federal law shall be settled by the Federal Constitutional Court.

Article 127 (Legislation of the Combined Economic Area)

Within one year of the promulgation of this Basic Law the Federal Government may with the consent of the governments of the Länder concerned extend to the Länder Baden, Greater Berlin, Rhineland-Palatinate and Württemberg-Hohenzollern legislation introduced by the Administration of the Combined Economic Area in so far as it remains in force as federal law pursuant to Article 124 or Article 125.

Article 128 (Continued validity of powers to issue directives)

In so far as legislation continuing in force provides for powers to issue directives within the meaning of paragraph (5) of Article 84 those powers shall remain valid until otherwise provided by law.

Article 129 (Continued validity of powers to issue statutory orders)

(1) In so far as legal provisions which continue in force as federal law contain powers to issue statutory orders or general administrative rules or to perform administrative acts such powers shall pass to the henceforth appropriate authorities. In cases of doubt the Federal Government shall decide in agreement with the Bundesrat; such decisions shall be published.

(2) In so far as legal provisions which continue in force as Land legislation contain such powers they shall be acted upon by the authorities with jurisdiction under Land law.

(3) In so far as legal provisions within the meaning of paragraphs (1) and (2) of this Article contain powers for their amendment or supplementation or the issue of legal provisions in lieu of statutory law such powers shall be deemed to have expired.

(4) The provisions of paragraphs (1) and (2) of this Article shall apply *mutatis mutandis* where legal provisions refer to regulations no longer valid or to institutions no longer in existence.

Article 130 (Control over existing institutions)

(1) Administrative agencies and other institutions which serve the public administration or the administration of justice and are not governed by Land law or agreements between Länder, as well as the Administrative Union of South West German Railways and the Administrative Council for the Postal and Telecommunications Services of the French Occupation Zone, shall be placed under the control of the Federal Government. The latter shall provide, with the consent of the Bundesrat, for the transfer of control over or dissolution of such agencies.

(2) The supreme disciplinary authority for the staff of such agencies and institutions shall be the appropriate Federal Minister.

(3) Public corporations and institutions not directly subordinate to a Land and not governed by agreements between Länder shall be under the supervision of the appropriate supreme federal authority.

Article 131 (Legal status of former public service staff)

The legal status of people, including refugees and expellees, who on 8 May 1945 were employed in the public service, have left the service for reasons not covered by civil service regulations or collective agreements and have not until now been reinstated or are employed in positions which do not correspond to the ones they held previously shall be regulated by federal legislation. The same shall apply *mutatis mutandis* to people, including refugees and expellees, who, on 8 May 1945, were entitled to but no longer receive a pension or commensurate pension for reasons not covered by civil service regulations or collective agreements. Until the legislation comes into force no legal claims shall be admissible unless Land legislation provides otherwise.

Article 132 (Temporary revocation of rights of public service staff)

(1) Civil servants and judges who when this Basic Law comes into force are in permanent service may within six months after the first meeting of the Bundestag be permanently or temporarily retired or given other responsibilities in a lower salary group where they lack the personal or professional aptitude for their present office. This provision shall also apply mutatis mutandis to public employees other than civil servants or judges whose appointment has become permanent. In the case of public employees who do not hold a permanent appointment periods of notice in excess of those laid down in collective agreements may be revoked within the six months referred to above.

(2) The preceding provision shall not apply to members of the public service who are not affected by the legislation regarding "Liberation from National Socialism and Militarism" or are recognized victims of National Socialism, except on important grounds relating to them as individuals.

(3) Those affected may have recourse to the courts in accordance with paragraph (4) of Article 19.

(4) Details shall be the subject of a statutory order of the Federal Government requiring the consent of the Bundesrat.

Article 133 (Administration of the Combined Economic Area)

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

Article 134 (Property of the Reich)

(1) Reich property shall become federal property.

(2) In so far as such property was originally intended predominantly for administrative tasks which under this Basic Law do not come under the executive responsibility of the Federation, it shall be transferred without compensation to the authorities now responsible and to the Länder in so far as it is currently being used, not merely temporarily, for administrative tasks which under this Basic Law are now under the executive responsibility of the Länder. The Federation may also transfer other property to the Länder.

(3) Property which was placed at the disposal of the Reich by Länder or municipalities (associations of municipalities) without compensation shall revert to those Länder or municipalities (associations of municipalities) in so far as it is not required by the Federation for its own administrative tasks.

(4) Details shall be the subject of a federal law requiring the consent of the Bundesrat.

Article 135 (Property of former Länder and public corporations)

(1) Where after 8 May 1945 and before the coming into force of this Basic Law an area has passed from one Land to another, the Land to which the area now belongs shall be entitled to the property located there of the Land to which it belonged.

(2) Property of Länder, public corporations or institutions which no longer exist shall pass, in so far as it was originally intended predominantly for administrative tasks or is currently being used, not merely temporarily, primarily for administrative tasks, to the Land, public corporation or institution which now discharges these tasks.

(3) Real property of Länder which no longer exist, including appurtenances, shall pass to the Land within which it is located in so far as it does not belong to property within the meaning of paragraph (1) of this Article.

(4) Where an overriding interest of the Federation or the particular interest of an area so requires, a settlement other than that provided for in paragraphs (1) to (3) of this Article may be effected by federal legislation.

(5) In all other respects the succession in title and the settlement of the property, in so far as it has not been effected before 1 January 1952 by agreement between the Länder or public corporations or institutions concerned, shall be regulated by federal legislation requiring the consent of the Bundesrat.

(6) Holdings of the former Land of Prussia in private enterprises shall pass to the Federation. Details shall be the subject of a federal law, which may also diverge from this provision.

(7) In so far as property which on the coming into force of this Basic Law would devolve upon a Land, public corporation or institution pursuant to paragraphs (1) to (3) of this Article has been disposed of through or by

virtue of a Land law or in any other manner by the party thus entitled, the transfer of the property shall be deemed to have taken place before such disposition.

Article 135a (Old liabilities)

(1) The legislation reserved to the Federation by virtue of paragraph (4) of Article 134 and paragraph (5) of Article 135 may also stipulate that the following liabilities shall not be discharged, or not to their full extent:

1. liabilities of the Reich and liabilities of the former Land of Prussia or public corporations and institutions which no longer exist;
2. such liabilities of the Federation or public corporations and institutions as are connected with the transfer of property pursuant to Article 89, 90, 134 or 135, and any liabilities of these corporations and institutions arising from measures taken by the corporations and institutions mentioned in sub-paragraph 1;
3. liabilities of Länder or municipalities (associations of municipalities) that have arisen from measures taken by them before 1 August 1945 within the scope of administrative tasks incumbent upon or delegated by the Reich in compliance with orders of the occupying powers or to terminate a state of emergency resulting from the war.

(2) Paragraph (1) above shall apply *mutatis mutandis* to liabilities of the German Democratic Republic or its institutions as well as to liabilities of the Federation or other public corporations and institutions which are connected with the transfer of property of the German Democratic Republic to the Federation, Länder and municipalities, and to liabilities arising from measures taken by the German Democratic Republic or its institutions.

Article 136 (First assembly of the Bundesrat)

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

(2) Until the election of the first Federal President the powers of that office shall be exercised by the President of the Bundesrat. The latter shall not have the right to dissolve the Bundestag.

Article 137 (Eligibility of public servants for election)

(1) The eligibility of civil servants, other salaried public employees, regular servicemen, temporary volunteer servicemen or judges for election in the Federation, Länder or municipalities may be restricted by legislation.

(2) The electoral bill to be adopted by the Parliamentary Council shall apply to the election of the first Bundestag, the first Federal Convention and the first President of the Federal Republic.

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

Article 138 (Notarial service in southern Germany)

Changes in the notarial service as presently existing in the Länder Baden, Bavaria, Württemberg-Baden and Württemberg-Hohenzollern shall require the consent of the governments of these Länder.

Article 139 (Continued validity of legislation on denazification)

The legislation 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 (Rights of religious communities)

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 ("Bremen Clause")

The first sentence of paragraph (3) of Article 7 shall not apply in any Land in which different provisions of Land law were in force on 1 January 1949.

* These articles are appended on page 91.

Article 142 (Basic rights in Land constitutions)

Notwithstanding the provision of Article 31, provisions of Land constitutions shall also remain in force where they guarantee basic rights in conformity with Articles 1 to 18 of this Basic Law.

Article 142a (Repealed)

Article 143 (Derogations from the Basic Law)

(1) Law in the territory specified in Article 3 of the Unification Treaty may derogate from provisions of this Basic Law for a period not extending beyond 31 December 1992 in so far and as long as it is not possible for that territory to comply fully with the requirements of the Basic Law on account of the different conditions existing there. Derogations must not violate paragraph (2) of Article 19 and must be compatible with the principles set out in paragraph (3) of Article 79.

(2) Derogations from Chapters II, VIII, VIIIa, IX, X and XI are permissible for a period not extending beyond 31 December 1995.

(3) Notwithstanding paragraphs (1) and (2) above, Article 41 of the Unification Treaty and implementing provisions shall remain valid in so far as they provide for the irreversibility of encroachments upon property in the territory specified in Article 3 of the said Treaty.

Article 143a (Exclusive legislative jurisdiction for federal railways)

(1) The Federation has the exclusive right to legislate on all matters resulting from the privatization of Federal Railways under its administration. Paragraph (5) of Article 87e shall apply *mutatis mutandis*. Officials of the Federal Railways may be assigned to a private federal railway whilst maintaining their legal status and continuing to be under the responsibility of their public employer.

(2) Legislation pursuant to paragraph (1) shall be executed by the Federation.

(3) Responsibility for local passenger rail services of the hitherto Federal Railways shall remain with the Federation until 31 December 1995. The same shall apply to corresponding responsibilities of the Rail Transport

Administration. Details shall be the subject of federal legislation requiring the consent of the Bundesrat.

Article 144 (Ratification of the Basic Law)

(1) This Basic Law shall be subject to ratification by the parliaments of two thirds of the German Länder in which it is temporarily to apply.

(2) In so far as the application of this Basic Law is subject to restrictions in any Land listed in Article 23 or in any part thereof, such Land or part thereof shall have the right to be represented in the Bundestag in accordance with Article 38 and in the Bundesrat in accordance with Article 50.

Article 145 (Promulgation of the Basic Law)

(1) The Parliamentary Council shall confirm in public session, with the participation of the members for Greater Berlin, the ratification of this Basic Law and shall sign and promulgate it.

(2) This Basic Law shall enter into force on the day after its promulgation.

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

Article 146 (Validity of the Basic Law)

This Basic Law, which is valid for the entire German nation following the achievement of the unity and freedom of Germany, shall cease to have effect on the day on which a constitution adopted by a free decision of the German people enters into force.

Bonn on the Rhine, 23 May 1949

Dr Adenauer
President of the Parliamentary Council

Schönfelder
First Vice-President

Dr Schäfer
Second Vice-President

**Extract from the German Constitution of 11 August 1919
(Weimar Constitution)**

Religion and religious communities

Article 136

- (1) Civil and political rights and duties shall be neither dependent on nor restricted by the exercise of religious freedom.
- (2) Enjoyment of civil and political rights and eligibility for public office shall be independent of religious denomination.
- (3) Nobody shall be obliged to disclose their religious convictions. The authorities may not enquire about their membership of a religious community except where rights or duties depend on such information or a statutory statistical survey makes such enquiry necessary.
- (4) Nobody may be compelled to perform any religious act or ceremony or to participate in religious practices or to use a religious form of oath.

Article 137

- (1) There shall be no state church.
- (2) Freedom to form religious communities shall be guaranteed. The uniting of religious communities within the territory of the Reich shall not be subject to any restrictions.
- (3) Every religious community shall regulate and administer its affairs independently within the limits of the law valid for all. It shall confer its offices without the participation of the state or the civil community.
- (4) Religious communities shall acquire legal capacity according to the general provisions of civil law.
- (5) Religious communities shall remain public corporations if they have enjoyed that status hitherto. Other religious communities shall be granted like rights upon application where their constitution and the number of their members offer an assurance of their permanency. Where several such public religious communities form one organization it too shall be a public corporation.

(6) Religious communities that are public corporations shall be entitled to levy taxes in accordance with Land law on the basis of the civil taxation lists.

(7) Associations which foster non-religious beliefs shall have the same status as religious communities.

(8) Any further legislation as may be required for the implementation of these provisions shall lie within the jurisdiction of the Länder.

Article 138

(1) State contributions to religious communities based on law or contract or special legal titles shall be redeemed by means of Land legislation. The principles for such redemption shall be established by the Reich.

(2) The right to own property and other rights of religious communities or associations in respect of their institutions, foundations and other assets intended for purposes of worship, education or charity shall be guaranteed.

Article 139

Sundays and feast-days recognized by the state shall remain legally protected as days of rest from work and of spiritual edification.

Article 141

To the extent that there exists a need for religious services and pastoral work in the army, hospitals, prisons or other public institutions, the religious communities shall be permitted but in no way compelled to perform religious acts.

AMENDMENTS TO THE BASIC LAW

| No. | Legislation | Date | Source: FLG I* | Articles affected |
|-----|---|------------|-------------------|--|
| 1 | Act amending criminal law | 30/8/1951 | p. 739 | 143 |
| 2 | Act inserting Article 120a | 14/8/1952 | p. 445 | 120a |
| 3 | Act amending Article 107 | 20/4/1953 | p. 130 | 107 |
| 4 | Supplementing act | 26/3/1954 | p. 45 | 73 No. 1, 79 (1), 2nd sent., 142a |
| 5 | Second act amending Article 107 | 25/12/1954 | p. 507 | 107 |
| 6 | Act amending and supplementing the financial regime | 23/12/1955 | p. 817 | 106, 107 |
| 7 | Supplementing act | 19/3/1956 | p. 111 | 1 (3), 12, 36, 49, 60 (1), 96 (3), 137 (1), 17a, 45a, 45b, 59a, 65a, 87a, 87b, 96a, 143 |
| 8 | Act amending and supplementing Article 106 | 24/12/1956 | p. 1077 | 106 (2), (6)-(8) |
| 9 | Act inserting Article 135a | 22/10/1957 | p. 1745 | 135a |
| 10 | Supplementing act | 23/12/1959 | p. 813 | 74 No. 11a, 87c |

* FLG I = Federal Law Gazette, Part I

| No. | Legislation | Date | Source: FLG I | Articles affected |
|-----|---|------------|------------------|--|
| 11 | Act inserting an article on aviation administration | 6/2/1961 | p. 65 | 87d |
| 12 | Amending act | 6/3/1961 | p. 141 | 96 (3), 96a |
| 13 | Amending act | 16/6/1965 | p. 513 | 74 Nos. 10 and 10a |
| 14 | Amending act | 30/7/1965 | p. 649 | 120 (1) |
| 15 | Amending act | 8/6/1967 | p. 581 | 109 |
| 16 | Amending act | 18/6/1968 | p. 657 | 92, 95, 96a (3), 99, 100 (3), 96 |
| 17 | Amending act | 24/6/1968 | p. 709 | 10, 11 (2), 12, 73 No. 1, 87a, 91, 9 (3), 3rd sent., 12a, 19 (4), 3rd sent., 20 (4), 35 (2) and (3), 53a, 80a, 115a to 115l, 59a, 65a (2), 142a, 143 |
| 18 | Amending act | 15/11/1968 | p. 1177 | 76 (2), 77 (2), 1st sent., and (3) |

| No. | Legislation | Date | Source: FLG I | Articles affected |
|-----|--------------|-----------|------------------|--|
| 19 | Amending act | 29/1/1969 | p. 97 | 93 (1) Nos. 4a and 4b, 94 (2), 2nd sent. |
| 20 | Amending act | 12/5/1969 | p. 357 | 109 (3), 110, 112, 113, 114, 115 |
| 21 | Amending act | 12/5/1969 | p. 359 | 105 (2), 106, 107, 108, 115c (3), 115k (3), 91a, 91b, 104a, 105 (2a) |
| 22 | Amending act | 12/5/1969 | p. 363 | 74 Nos. 13 and 22, 96 (4), 74 No. 19a, 75 Nos. 1a, 2 and 3 |
| 23 | Amending act | 17/7/1969 | p. 817 | 76 (3), 1st sent. |
| 24 | Amending act | 28/7/1969 | p. 985 | 120 (1), 2nd sent. |
| 25 | Amending act | 19/8/1969 | p. 1241 | 29 |
| 26 | Amending act | 26/8/1969 | p. 1357 | 96 (5) |
| 27 | Amending act | 31/7/1970 | p. 1161 | 38 (2), 91a (1) No. 1 |
| 28 | Amending act | 18/3/1971 | p. 206 | 74a, 75, 98 (3) |

| No. | Legislation | Date | Source: FLG I | Articles affected |
|-----|---|------------|--------------------------|---|
| 29 | Amending act | 18/3/1971 | p. 207 | 74 No. 20 |
| 30 | Amending act | 12/4/1972 | p. 593 | 74 No. 24 |
| 31 | Amending act | 28/7/1972 | p. 1305 | 35 (2), 73 No. 10, 87 (1), 2nd sent., 74 No. 4a |
| 32 | Amending act | 15/7/1975 | p. 1901 | 45c |
| 33 | Amending act | 23/8/1976 | p. 2381 | 29 (1)-(7), 39 (1) and (2), 45. 45a (1), 2nd sent., 49 |
| 34 | Amending act | 23/8/1976 | p. 2383 | 74 No. 4a |
| 35 | Amending act | 21/12/1983 | p. 1461 | 21 (1), 4th sent. |
| 36 | Unification Treaty of 31/8/1990 in conjunction with Article 1 of the Unification Act | 23/9/1990 | FLG Part II p. 885 | Preamble, 51 (2), 146, 135a (2), 143, 23 |
| 37 | Amending act | 14/7/1992 | p. 1254 | 87d (1) |
| 38 | Amending act | 21/12/1992 | p. 2086 | 23, 24 (1a), 28 (1), 3rd sent., 45, 50, 52 (3a), 88, 2nd sent., 115e (2), 2nd sent. |

| No. | Legislation | Date | Source: FLG I | Articles affected |
|-----|--------------|------------|------------------|---|
| 39 | Amending act | 28/6/1993 | p. 1002 | 16 (2), 2nd sent., 16a, 18, 1st sent. |
| 40 | Amending act | 20/12/1993 | p. 2089 | 73 Nos. 6 and 6a, 74 No. 23, 80 (2), 87 (1), 87e, 106a, 143a |

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* The term "Verordnung" is often translated as "ordinance".

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The National Anthem (third verse*)

Unity and right and freedom for the German fatherland,
let us all pursue this purpose fraternally with heart and hand.
Unity and right and freedom are the pledge of happiness.
Flourish in this blessing's glory, flourish, German fatherland.



* Only this verse is sung at official ceremonies.



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