

**Constitution of the Free State of Bavaria  
in the version announced on  
15 December 1998**

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In the face of the scene of devastation into which the survivors of the 2<sup>nd</sup> World War were led by a godless state and social order which lacked any conscience and respect for human dignity, with the firm intention of permanently securing for the future generations the blessings of peace, humanity and justice and mindful of its history of more than a thousand years, the Bavarian people herewith bestows upon itself the following

Democratic Constitution

**First Part**

**The structure and the tasks of the state**

**Section 1**

**The foundations of the Bavarian State**

**Art. 1**

- (1) Bavaria is a free state.
- (2) The state colours are white and blue.
- (3) The coat of arms shall be determined by law.

**Art. 2**

- (1) <sup>1</sup> Bavaria is a people's state. <sup>2</sup> The state authority shall emanate from the people.
- (2) <sup>1</sup> The people shall express their will through elections and votes. <sup>2</sup> Majority votes shall be decisive.
- (3)

**Art. 3**

- (1) <sup>1</sup> Bavaria is a cultural and social state governed by the rule of law. <sup>2</sup> It shall serve the public good.
- (2) <sup>1</sup> The state shall protect the natural basis of life and cultural traditions. <sup>2</sup> It shall further and secure equal living and working conditions in all urban and rural areas throughout Bavaria.

*Paragraph 2 sentence 1 has been incorporated by the act dated 20 June 1984 (GVBl. page 223), sentence 2 has been incorporated by the act dated 11 November 2013 (GVBl. page 638).*

*In accordance with the legal practice of the Bavarian Constitutional Court, the constitutional provision shall neither grant any basic rights nor personal (subjective)*

*rights to the citizen but it shall be directly applicable law rather than a mere programme objective; Article 3 corresponds to the requirements stipulated by Art. 28 (1) sentence 1 GG [Basic Law] regarding the constitutional order in the federal states; cf. Art. 20 GG.*

### **Art. 3a**

<sup>1</sup> Bavaria declares itself to be part of a unified Europe, which is committed to democratic, social and federal principles governed by the rule of law and the principle of subsidiarity, which safeguards the independence of the regions and ensures their involvement in European decisions. <sup>2</sup> Bavaria shall work together with other European regions.

### **Art. 4**

The state authority shall be exercised by the citizens who are entitled to vote themselves, through the parliament elected by them and through the executive bodies and the judiciary directly or indirectly authorised by such parliament.

### **Art. 5**

- (1) The legislative power shall be the exclusive prerogative of the people and the parliament.
- (2) The executive power shall rest in the hands of the state government and its subordinated executive bodies.
- (3) The judicial power shall be exercised by an independent judiciary.

### **Art. 6**

- (1) State citizenship shall be acquired
  1. by birth;
  2. by legitimation;
  3. by marriage;
  4. by naturalisation.
- (2) No citizen may be deprived of his/her citizenship.
- (3) Further details shall be governed by a law on citizenship.

### **Art. 7**

- (1) Each citizen aged 18 or older shall be granted the rights and duties of citizenship regardless of birth, race, sex, faith and profession.
- (2) Citizens shall exercise their rights by participating in elections, local petitions for referendums and local referendums as well as state-wide petitions for referendums and state-wide referendums.
- (3) Exercising these rights may be made dependent on residence of up to one year.

### **Art. 8**

All German citizens who have their place of residence in Bavaria shall have the same rights and duties as Bavarian citizens.

#### **Art. 9**

- (1) The state territory shall be divided into regions (administrative regions); their boundaries shall be determined by law.
- (2) <sup>1</sup> The regions shall be subdivided into counties; the independent cities shall have the same rights as the counties. <sup>2</sup> The classification shall be determined by a statutory instrument of the State Government; for this purpose, the prior permission of the Bavarian State Parliament must be obtained.

#### **Art. 10**

- (1) For the territory of each region and county, an association of municipalities shall exist as a self-administration body.
- (2) The associations of municipalities' own sphere of activity shall be governed by the law.
- (3) <sup>1</sup> By law, further tasks may be assigned to the associations of municipalities, which they must perform in the name of the state. <sup>2</sup> They shall either perform those tasks according to the instructions of the state authorities or independently by virtue of special provisions.
- (4) The independent economic and cultural existence within the associations of municipalities must be protected and maintained.
- (5)

#### **Art. 11**

- (1) <sup>1</sup> Each part of the state territory is allocated to a municipality. <sup>2</sup> Exceptions to this are certain uninhabited areas (areas not incorporated into a municipality).
- (2) <sup>1</sup> The municipalities are original administrative units under public law. <sup>2</sup> They shall be entitled to order and manage their affairs themselves within the framework of the laws and in particular to elect their mayors and representative bodies.
- (3) By law, further tasks may be assigned to the municipalities, which they must perform in the name of the state.
- (4) The self-administration of the municipalities shall serve the purpose of establishing a democracy in Bavaria from the bottom up.
- (5) The self-administration of the municipality shall be subject to the principle of equality of the political rights and duties of all citizens living in the municipality.

#### **Art. 12**

- (1) The principles for the Bavarian State Parliament election shall also apply to the municipalities and associations of municipalities.
- (2) <sup>1</sup> Under no circumstances may the property of the municipalities and associations of municipalities be subsumed into the state property. <sup>2</sup> The donation of such property shall be inadmissible.
- (3) <sup>1</sup> The citizens shall be entitled to regulate affairs within the sphere of the municipalities and administrative districts by means of local petitions for referendums and local referendums. <sup>2</sup> Further details are governed by the respective law.

## **Section 2**

### **The Bavarian State Parliament**

#### **Art. 13**

(1) The Bavarian State Parliament consists of 180<sup>1)</sup> members representing the Bavarian people.

(2) <sup>1</sup> The Bavarian State Parliament members are the representatives of the people rather than of a party. <sup>2</sup> They shall only answer to their own conscience and shall not be bound by instructions.

#### **Footnotes**

1) For the 14<sup>th</sup> Bavarian State Parliament please refer to Section 2 (3) no. 2 of the act of 20 February 1998 (GVBl page 39).

#### **Art. 14**

(1) <sup>1</sup> The members of the Bavarian State Parliament shall be elected by all citizens entitled to vote in the constituencies and electoral districts in a universal, equal, direct and secret election in accordance with an improved system of proportional representation. <sup>2</sup> Each administrative region shall form a constituency <sup>3</sup> Each administrative district and each independent municipality shall constitute an electoral district. <sup>4</sup> If required by the principle of electoral equality, geographically contiguous electoral districts must be formed in deviation from sentence 3. <sup>5</sup> The maximum number of electoral districts formed for each constituency may only exceed the number of members to be voted into the Bavarian State Parliament from the constituency list by one electoral district.

<sup>6</sup> The number of members under Art. 13 (1) may be exceeded by extra seats and levelling seats which are allocated in accordance with these principles.

(2) Any citizen who is capable of voting and has attained the age of 18 shall be eligible for election.

(3) The election shall be held on a Sunday or a public day of rest.

(4) Parties standing for election which fail to gain at least five percent of the total valid votes cast shall not be allocated a seat in the Bavarian State Parliament.

(5) Further details shall be governed by the Bavarian Electoral Act.

#### **Art. 15**

(1) Political groups with members or sponsors who intend to suppress civil freedom or to use force against the people, the state or the Constitution, may not participate in elections and votes.

(2) The Bavarian Constitutional Court shall rule as to whether these prerequisites are met on a motion of the State Government or any of the political parties represented in the Bavarian State Parliament.

#### **Art. 16**

(1) <sup>1</sup> The Bavarian State Parliament shall be elected for a term of five years. <sup>2</sup> Its electoral term shall commence with its first assembly and shall end with the first assembly of a new Bavarian State Parliament. <sup>3</sup> The new election shall be held no sooner than 59 months but not later than 62 months after the day the previous Bavarian State Parliament was elected.

(2) The Bavarian State Parliament shall assemble at the latest 22 days after the election.

#### **Art. 16a**

(1) A parliamentary opposition shall be a basic component of the parliamentary democracy.

(2) <sup>1</sup> The parliamentary groups and the members of the Bavarian State Parliament who do not support the State Government shall have the right to affect the Bavarian State Parliament and the public corresponding to their position. <sup>2</sup> They shall be entitled to the means and facilities necessary for performing their special tasks.

(3) Further details shall be governed by law.

#### **Art. 17**

(1) The Bavarian State Parliament shall assemble each year in autumn at the seat of the State Government.

(2) <sup>1</sup> The President can convene the Bavarian State Parliament at an earlier date. <sup>2</sup> The President must convene the Bavarian State Parliament if this is requested by the State Government or at least one third of the members of the Bavarian State Parliament.

(3) The Bavarian State Parliament shall determine the end of the sitting and the time of the next assembly.

#### **Art. 18**

(1) The Bavarian State Parliament may dissolve itself prior to the end of its electoral term by a majority vote of its legal number of members.

(2) In the case stated under Art. 44 (5), it can be dissolved by the President of the Bavarian State Parliament.

(3) On request of one million citizens entitled to vote, it can be dismissed by means of a state-wide referendum.

(4) The new election of the Bavarian State Parliament shall be held at the latest on the sixth Sunday after the dissolution or dismissal.

#### **Art. 19**

The seat in the Bavarian State Parliament can be forfeited by waiver, declaration of invalidity of the election, subsequent change of the electoral result and loss of eligibility.

#### **Art. 20**

(1) The Bavarian State Parliament shall elect a Presidium from among its ranks, consisting of a President, his/her deputy and the secretaries.

(2) Between sittings, the Presidium shall continue the ongoing business of the Bavarian State Parliament.

(3) The Bavarian State Parliament shall adopt rules of procedure for itself.

#### **Art. 21**

(1) The President shall exercise the domestic authority and the police power in the buildings of the Bavarian State Parliament.

(2) The President shall be responsible for the internal administration, can dispose of the income and expenses of the Bavarian State Parliament and shall represent the state in all legal transactions and legal disputes of this administration.

#### **Art. 22**

(1) <sup>1</sup> The sittings of the Bavarian State Parliament shall be public. <sup>2</sup> On a motion filed by 50 members or the State Government, the general public can be excluded for the discussion of a certain matter with a majority vote of two thirds of the members present. <sup>3</sup> The general public must be excluded if and as long as requested by the State Government for substantiating its motion for exclusion of the general public. <sup>4</sup> The Bavarian State Parliament shall decide if and in what way the general public should be informed about such discussions.

(2) Truthful reports about the discussions in the public meetings of the Bavarian State Parliament or its committees shall not give rise to liability unless they repeat defamations.

#### **Art. 23**

(1) The Bavarian State Parliament shall reach its decision with a simple majority of the votes cast unless the Constitution provides for another proportion of votes.

(2) For a quorum of the Bavarian State Parliament, the majority of its members must be present.

(3) The exceptions stipulated in the Constitution shall remain unaffected.

#### **Art. 24**

(1) The Bavarian State Parliament and its committees can call for the attendance of the Minister-President and each of its state ministers and state secretaries.

(2) <sup>1</sup> The members of the State Government and their appointed agents shall have access to all sittings of the Bavarian State Parliament and the meetings of its committees. <sup>2</sup> They must be heard at any time during the discussion, even for items that are not on the agenda.

#### **Art. 25**

(1) The Bavarian State Parliament shall have the right and, on a motion of one fifth of its members, the duty to set up committees of inquiry.

(2) For each new committee of inquiry set up, the chair shall rotate between the parliamentary groups depending on their relative strength in the Bavarian State Parliament.

(3) <sup>1</sup> These committees and the authorities called on by them can gather all evidence necessary in accordance with the Code of Criminal Procedure; they may also summon and examine witnesses and experts, swear them in and make use of compulsory testimony procedures against them. <sup>2</sup> However, the secrecy of letters, post, telegraphs and telephone communications shall remain unaffected. <sup>3</sup> The judicial and administrative authorities shall be

obliged to comply with the request for taking evidence of those committees. <sup>4</sup> The files of the authorities must be presented to them on demand.

(4) <sup>1</sup> On the motion of one fifth of their members, the committees must grant admissible motions under paragraph 3. <sup>2</sup> If the majority of the members of said committee consider a motion under paragraph 3 to be inadmissible, the Bavarian State Parliament shall decide. <sup>3</sup> The decision can be brought before the Bavarian Constitutional Court.

(5) <sup>1</sup> The committees of inquiry shall sit in public but the general public can be excluded on demand of a majority of two thirds. <sup>2</sup> Art. 22 (1) sentence 3 and 4 shall apply mutatis mutandis.

#### **Art. 25a**

<sup>1</sup> In order to prepare for decisions on extensive and important matters falling within the area of responsibility of the Free State of Bavaria, the Bavarian State Parliament can set up a study commission. <sup>2</sup> It shall be obliged to set up such a study commission on a motion of one fifth of its members. <sup>3</sup> The motion must specify the mandate of the commission. <sup>4</sup> Further details in this respect are governed by the rules of procedure of the Bavarian State Parliament.

#### **Art. 26**

(1) <sup>1</sup> In order to safeguard the rights of the Bavarian State Parliament vis-à-vis the State Government and for dealing with urgent matters of state, the Bavarian State Parliament shall appoint an interim committee for the time outside of sittings and after the dissolution or dismissal of the Bavarian State Parliament until the new Bavarian State Parliament assembles. <sup>2</sup> This committee shall have the authorisations of the Bavarian State Parliament but cannot impeach a minister and cannot pass laws or process petitions for state-wide referendums.

(2) This committee shall be governed by the provisions of Art. 25.

#### **Art. 27**

At no time may a member of the Bavarian State Parliament be subjected to court proceedings or disciplinary action or otherwise called to account outside of the assembly for a vote cast by such member.

#### **Art. 28**

(1) A member of the Bavarian State Parliament may not be subjected to investigations or arrested for a punishable offence while the Bavarian State Parliament is sitting without its permission, unless he/she is apprehended while committing the offence or in the course of the following day at the latest.

(2) The same permission shall be required for any other restriction of a member's freedom of person and consequent impairment in exercising his/her capacity as member of the Bavarian State Parliament.

(3) <sup>1</sup> All criminal proceedings against a member of the Bavarian State Parliament and any detention or other restriction of the member's freedom of person shall be suspended on demand of the Bavarian State Parliament for the duration of the sitting. <sup>2</sup> However, such demand shall not be possible if the member is accused of a non-political crime. <sup>3</sup> The Bavarian State Parliament shall decide whether or not this is the case.

### **Art. 29**

(1) <sup>1</sup> The members of the Bavarian State Parliament may refuse to give evidence concerning persons who have confided information to them in their capacity as members of the Bavarian State Parliament, or to whom they have confided information in this capacity, as well as evidence concerning this information itself. <sup>2</sup> To the extent that this right of refusal to give evidence applies, no seizure of documents shall be permissible.

(2) Any investigation or seizure at the premises of the Bavarian State Parliament shall require the permission of the President.

### **Art. 30**

Members of the Bavarian State Parliament shall not be required to take holiday from their employer in order to perform their office as member of the Bavarian State Parliament.

### **Art. 31**

The members of the Bavarian State Parliament shall be entitled to use all public transport in Bavaria free of charge and they shall also be entitled to reimbursement of their expenses.

### **Art. 32**

(1) Art. 27 to Art. 31 shall apply to the Presidium of the Bavarian State Parliament as well as to the members of the interim committee and their first deputies.

(2) In the cases specified under Art. 28, the cooperation of the Bavarian State Parliament shall be replaced by the cooperation of the interim committee.

### **Art. 33**

<sup>1</sup> The scrutiny of elections shall be the responsibility of the Bavarian State Parliament. <sup>2</sup> If the validity of an election is contested, the Bavarian Constitutional Court shall decide. <sup>3</sup> It shall also decide whether a member's seat in the Bavarian State Parliament is forfeited.

### **Art. 33a**

(1) The Bavarian State Parliament shall elect a State Data Protection Officer at the proposal of the State Government.

(2) The State Data Protection Officer shall monitor the compliance with the data protection provisions of public bodies in accordance with the law.

(3) <sup>1</sup> The State Data Protection Officer shall be independent in exercising his/her office and shall only be subject to the law. <sup>2</sup> He/she shall be under the supervision of the President of the Bavarian State Parliament.

(4) <sup>1</sup> The State Data Protection Officer shall be elected for a term of six years. <sup>2</sup> A re-election shall be admissible. <sup>3</sup> Without his/her consent, the State Data Protection Officer can only be dismissed prior to the end of his/her term of office with a majority of two thirds of the members of the Bavarian State Parliament if this is justified by correspondingly applying the provisions on the removal from office of judges appointed for life.

(5) Further details shall be governed by law.



**Section 3**

**The Senate**

**Art. 34**

*(cancelled)*

**Art. 35**

*(cancelled)*

**Art. 36**

*(cancelled)*

**Art. 37**

*(cancelled)*

**Art. 38**

*(cancelled)*

**Art. 39**

*(cancelled)*

**Art. 40**

*(cancelled)*

**Art. 41**

*(cancelled)*

**Art. 42**

*(cancelled)*

## **Section 4**

### **The State Government**

#### **Art. 43**

- (1) The State Government shall be the supreme leading and executive authority of the state.
- (2) It shall consist of the Minister-President and up to 17 state ministers and state secretaries.

#### **Art. 44**

- (1) The Minister-President shall be elected by the newly elected Bavarian State Parliament, at the latest within one week after its assembly, for a term of five years.
- (2) Any citizen who is entitled to vote and has attained the age of 40 shall be eligible for election.
- (3) <sup>1</sup> The Minister-President may resign from his/her office at any time. <sup>2</sup> The Minister-President must resign if the political situation renders a trustful cooperation between him/her and the Bavarian State Parliament impossible. <sup>3</sup> The resignation of the Minister-President shall result in the resignation of the State Government. <sup>4</sup> Until the election of a new Minister-President, the external representation of Bavaria shall become the responsibility of the President of the Bavarian State Parliament. <sup>5</sup> During this period, the President of the Bavarian State Parliament cannot be dismissed.
- (4) In the event of the resignation or the death of the Minister-President during his/her term of office, a new Minister-President shall be elected during the next sitting of the Bavarian State Parliament for the remainder of the current term of office.
- (5) If a new election does not take place within four weeks, the President of the Bavarian State Parliament must dissolve the Bavarian State Parliament.

#### **Art. 45**

The Minister-President shall appoint and dismiss the state ministers and state secretaries with the consent of the Bavarian State Parliament.

#### **Art. 46**

The Minister-President shall appoint his/her deputy from among the ranks of the state ministers with the consent of the Bavarian State Parliament.

#### **Art. 47**

- (1) The Minister-President shall chair the State Government and conduct its business.
- (2) The Minister-President shall determine the political guidelines and shall be answerable in this respect to the Bavarian State Parliament.
- (3) The Minister-President shall represent Bavaria externally.
- (4) In individual cases, the Minister-President shall exercise the right of pardon.

(5) The Minister-President shall submit the bills of the State Government to the Bavarian State Parliament.

#### **Art. 48**

(1) In the event of imminent danger to public safety and security and public order, the State Government can restrict or suspend the right of freedom of expression (Art. 110), the freedom of the press (Art. 111), the secrecy of letters, post, telegraphs and telephone conversions (Art. 112) and the freedom of assembly (Art. 113), at first for a period of one week.

(2) <sup>1</sup> At the same time, it must convene the Bavarian State Parliament, must inform the Bavarian State Parliament of all measures taken without delay and must suspend all or parts of these measures on demand of the Bavarian State Parliament. <sup>2</sup> If the Bavarian State Parliament confirms the measures taken with a majority of its legal number of members, the application of such measures shall be extended by one month.

(3) In addition, it shall be possible to lodge an appeal against the measures taken with the Bavarian Constitutional Court, which must at least reach a provisional decision within one week.

#### **Art. 49**

<sup>1</sup> The Minister-President shall determine the number of the portfolios (state ministries) and shall define their responsibilities.

<sup>2</sup> This must be confirmed by a resolution of the Bavarian State Parliament.

#### **Art. 50**

<sup>1</sup> Each state minister shall be assigned a portfolio or a special task by the Minister-President.

<sup>2</sup> The Minister-President may reserve one or several portfolios for himself/herself or may assign several portfolios to one minister.

#### **Art. 51**

(1) Each state minister shall autonomously administer his/her portfolio on his/her own responsibility in accordance with the political guidelines determined by the Minister-President.

(2) <sup>1</sup> The State Secretaries shall be bound by the instructions of the state minister to whom they are assigned. <sup>2</sup> If the state minister is prevented from acting, they shall act autonomously and shall be accountable to the Bavarian State Parliament.

#### **Art. 52**

A State Chancellery shall support the Minister-President and the State Government in their constitutional tasks.

#### **Art. 53**

<sup>1</sup> The State Government shall adopt its own rules of procedure. <sup>2</sup> These rules of procedure shall govern the assignment of the government business to the individual portfolios. <sup>3</sup> Each state administration task must be assigned to a portfolio.

#### **Art. 54**

<sup>1</sup> The State Government shall adopt its resolutions with a majority of the votes cast. <sup>2</sup> If there is a tie of votes, the vote of the Minister-President shall be decisive. <sup>3</sup> The majority of the members must be present for a quorum. <sup>4</sup> No member may abstain from voting.

#### **Art. 55**

The following principles shall apply to the conduct of the business of the State Government and the individual state ministries:

1. The state administration shall be carried out in accordance with the Constitution, the laws and the budget.
2. The State Government and the individual state ministries shall be responsible for enforcing the laws and the resolutions of the Bavarian State Parliament. For this purpose, the State Government may enact the necessary decrees implementing a statute and administrative decrees. Statutory instruments which exceed the framework of a decree implementing a statute shall require a special authorisation by law.
3. The State Government shall decide on all bills to be presented to the Bavarian State Parliament. The information of the Bavarian State Parliament by the State Government shall be subject to an agreement between the Bavarian State Parliament and the State Government on a legal basis.
4. The State Government shall appoint the senior civil servants of the state ministries and the executive committees of the authorities directly subordinated to the state ministries. The other civil servants shall be appointed by the state ministers in charge or the authorities appointed by them.
5. The entire state administration shall be subordinate to the State Government and the competent state ministries. The state ministries shall be responsible for the supervision of the municipalities and associations of municipalities and the other bodies corporate under public law and the public trusts.
6. Each state minister shall exercise the administrative supervision of the authorities and civil servants of his/her portfolio.
7. Each state minister shall decide on administrative complaints within the framework of his/her portfolio.

#### **Art. 56**

All members of the State Government shall swear an oath on the Bavarian Constitution before the Bavarian State Parliament before they assume office.

#### **Art. 57**

<sup>1</sup> The Minister-President, the state ministers and the state secretaries must not exercise another paid office, profession or trade; they must not be members of the supervisory board or management board of a private, for-profit enterprise. <sup>2</sup> An exception shall be companies where the prevailing influence of the state is ensured.

#### **Art. 58**

The salary, pension and the provision for surviving dependents of the members of the State Government shall be governed by law.

**Art. 59**

The Bavarian State Parliament shall be entitled to impeach the Minister-President, and each state minister and state secretary before the Bavarian Constitutional Court for wilful violation of the Constitution or a law.

## **Section 5**

### **The Constitutional Court**

#### **Art. 60**

The Bavarian Constitutional Court shall be the supreme court for questions of constitutional law.

#### **Art. 61**

(1) The Bavarian Constitutional Court shall rule on impeachments of a member of the State Government or the Bavarian State Parliament.

(2) The impeachment of a member of the State Government shall be based on a wilful violation of the Constitution or a law by such member.

(3) The impeachment of a member of the Bavarian State Parliament shall be based on the abuse for gain of his/her influence or knowledge as member of the Bavarian State Parliament in a way that brings the reputation of the Bavarian State Parliament into serious discredit, or on deliberately revealing any communications to a third party anticipating that they would become public, despite a motion of confidentiality passed in a sitting of the Bavarian State Parliament or a meeting of its committees.

(4) <sup>1</sup> An impeachment shall be brought by the Bavarian State Parliament on a motion of one third of the legal number of members and it shall require a majority of two thirds of this number of members. <sup>2</sup> Each member of the State Government or the Bavarian State Parliament can file a motion against himself/herself.

#### **Art. 62**

The Bavarian Constitutional Court shall rule on the exclusion of political groups from elections and votes (Art. 15 (2)).

#### **Art. 63**

The Bavarian Constitutional Court shall rule on the validity of the election of members of the Bavarian State Parliament and the loss of the seat in the Bavarian State Parliament (Art. 33).

#### **Art. 64**

The Bavarian Constitutional Court shall rule on constitutional disputes between the supreme state organs or parts of a supreme state organ endowed with their own rights by the Constitution.

#### **Art. 65**

The Bavarian Constitutional Court shall rule on the constitutionality of laws (Art. 92).

#### **Art. 66**

The Bavarian Constitutional Court shall rule on appeals due to a violation of the constitutional rights by an authority (Art. 48 (3), Art. 120).

#### **Art. 67**

Furthermore, the Bavarian Constitutional Court shall rule on cases that are specifically assigned to it by law.

#### **Art. 68**

- (1) The Bavarian Constitutional Court shall be formed at the Higher Regional Court in Munich.
- (2) The Constitutional court shall be composed as follows:
  - a) In the cases governed under Art. 61, it shall be composed of one of the Presidents of the Bavarian Higher Regional Courts, eight professional judges, three of whom sit in the Higher Administrative Court, as well as another ten members to be elected by the Bavarian State Parliament;
  - b) In the cases under Art. 65, it shall be composed of the President and eight professional judges, three of whom sit in the Higher Administrative Court;
  - c) In all other cases it shall be composed of the President, three professional judges, two of whom sit in the Higher Administrative Court, and five members elected by the Bavarian State Parliament.
- (3) <sup>1</sup> The President and the professional judges shall be elected by the Bavarian State Parliament. <sup>2</sup> They cannot be members of the Bavarian State Parliament.

#### **Art. 69**

The other provisions on the organisation of the Bavarian Constitutional Court and on the proceedings before it as well as the enforcement of its rulings shall be governed by law.

## **Section 6**

### **The legislation**

#### **Art. 70**

- (1) Generally binding orders and prohibitions must be enacted as a law.
- (2) The state budget must also be adopted by means of a formal law by the Bavarian State Parliament.
- (3) The Bavarian State Parliament cannot transfer its right of legislation, not even to its committees.
- (4) <sup>1</sup> The State Government must inform the Bavarian State Parliament on matters of the European Union.

<sup>2</sup> If the right of legislation is affected by the transfer of sovereign rights to the European Union, the State Government can be bound by law with regard to its constitutional tasks. <sup>3</sup> If the right of legislation is affected by any plans of the European Union, the State Government must duly consider the comments of the Bavarian State Parliament in its constitutional tasks. <sup>4</sup> Further details shall be governed by a respective law.

*Paragraph 3 does not rule out the issuing of statutory instruments and ordinances (for example municipal ordinances) by the executive.*

*Paragraph 4 has been incorporated by the act dated 11 November 2013 (GVBl. page 640).*

#### **Art. 71**

The bills shall be introduced by the Minister-President in the name of the State Government, from members of the Bavarian State Parliament or the people (petition for a state-wide referendum).

#### **Art. 72**

- (1) The laws shall be passed by the Bavarian State Parliament or the people (state-wide referendum).
- (2) State treaties shall be concluded by the Minister-President with the prior consent of the Bavarian State Parliament.

#### **Art. 73**

No referendums shall be held on the state budget.

#### **Art. 74**

- (1) A state-wide referendum must be brought about if one tenth of the citizens entitled to vote call for the creation of a law.
- (2) The state-wide referendum must be based on a detailed and substantiated bill.
- (3) The state-wide referendum must be submitted to the Bavarian State Parliament by the Minister-President in the name of the State Government, stating its opinion.



(4) If the Bavarian State Parliament rejects the state-wide referendum, it may present its own bill to be decided on by the people.

(5) <sup>1</sup> Valid petitions for a state-wide referendum must be dealt with by the Bavarian State Parliament within three months after their submission and must be presented to the people for decision within another three months. <sup>2</sup> The expiry of these periods shall be suspended by the dissolution of the Bavarian State Parliament.

(6) The state-wide referendums on petitions for a referendum shall usually be held in spring or autumn.

(7) Any bill presented to the people for decision must be accompanied by an instruction of the State Government which should present in a succinct and factual manner the reasons stated by the proposers of the bill and the opinion of the State Government in this matter.

#### **Art. 75**

(1) <sup>1</sup> The Constitution can only be changed by way of legislation. <sup>2</sup> Motions for changes of the Constitution which are opposed to the fundamental ideas of democracy of the Constitution shall be inadmissible.

(2) <sup>1</sup> Resolutions of the Bavarian State Parliament for a change of the Constitution shall require a majority of two thirds of its members. <sup>2</sup> They must be presented to the people for decision.

(3) The Bavarian Constitutional Court shall rule on disputes as to whether the Constitution should be changed by a law or whether a motion aims for an inadmissible change of the Constitution.

(4) Changes of the Constitution must be included in the wording of the Constitution or in an annex.

#### **Art. 76**

(1) The laws established in accordance with the Constitution shall be executed by the Minister-President and on his/her order shall be announced in the Bavarian Law Gazette within one week.

(2) Each law must stipulate the day on which it enters into force.

## **Section 7**

### **The administration**

#### **Art. 77**

(1) <sup>1</sup> The organisation of the general state administration, the regulation of responsibilities and the manner of appointing the state organs shall be effected by a law. <sup>2</sup> The details of the establishment of the authorities shall be the responsibility of the State Government and shall be based on the authorisation granted by it to the individual state ministries.

(2) The guiding principle for the organisation of the authorities and the rules regarding their procedure shall be that any unnecessary centralisation shall be avoided while the necessary uniformity is safeguarded, that the decision-making power and the responsibility of the organs shall be increased and that the rights of the individual shall be sufficiently safeguarded.

#### **Art. 78**

(1) All income and expenses of the state must be assessed for each year and entered in the budget.

(2) Expenses necessary for covering the costs of existing establishments and for fulfilling the legal duties of the state must be entered in the budget.

(3) The budget shall be adopted by law before the start of the budget year.

(4) If the state budget is not passed in the Bavarian State Parliament on time, the State Government shall initially continue the budget in accordance with the budget of the previous year.

(5) <sup>1</sup> Resolutions of the Bavarian State Parliament which increase the expenses entered in the draft budget must be discussed again on demand of the State Government. <sup>2</sup> Without the consent of the State Government, this discussion must not take place prior to an expiry of 14 days.

(6) The expenses shall usually be approved for one year; in special cases they shall also be approved for a longer period.

#### **Art. 79**

Any matter involving expenses for which no corresponding amount has been entered in the determined budget may only be discussed and decided by the Bavarian State Parliament if the necessary cover is ensured at the same time.

#### **Art. 80**

(1) <sup>1</sup> The State Minister of Finance shall submit annual accounts to the Bavarian State Parliament in the following budget year for the formal approval of the actions of the State Government with regard to the use of any state income. <sup>2</sup> The audit shall be carried out by a Court of Auditors enjoying the same independence as judges.

(2) <sup>1</sup> The Bavarian State Parliament shall elect the President of the Court of Auditors at the proposal of the State Government. <sup>2</sup> The term of office shall be 12 years. <sup>3</sup> A re-election shall be excluded. <sup>4</sup> Without his/her consent, the President of the Court of Auditors can only be

dismissed prior to the end of his/her term of office if this is justified by applying the provisions on the removal from office of judges appointed for life.<sup>5</sup> The consent of the Bavarian State Parliament with a majority of two thirds of its members shall be necessary for a removal from office.

(3) Further details shall be governed by law.

#### **Art. 81**

<sup>1</sup> The existing value of the basic assets of the state may only be diminished on the basis of a law. <sup>2</sup> The proceeds from the disposal of components of the basic assets must be used for new acquisitions to be added to those assets.

#### **Art. 82**

<sup>1</sup> Funds may only be procured by way of credit if there is exceptional need for such funds. <sup>2</sup> Any procurement and granting of credit or provisions of security at the expense of the state the effect of which exceeds one year shall require a law.

*Cf. in this respect the Gesetz über die Übernahme von Staatsbürgschaften [act on accepting state guarantees] in the version as announced on 27 June 1972 (GVBl. page 213, BayRS 66-1-F), amended by the acts dated 24 July 1998 (GVBl. page 422), 27 December 1999 (GVBl. page 554), 24 April 2001 (GVBl. page 140) and 24 December 2002 (GVBl. page 937); cf. Art. 115 GG.*

*Article 82 of the Bavarian Constitution below was revised and presented to the people for decision on 15 December 2013. In accordance with the act dated 11 November 2013 (GVBl. page 641) the revised version of Article 82 shall take effect on 1 January 2020. The full text of the revised version is printed.*

(1) The budget must be balanced without net borrowing on principle.

(2) In the event of an abnormal economic development, a deviation from paragraph 1 shall be allowed. In that case, the impacts on the budget during an upturn and downturn must be symmetrically taken into account.

(3) In the event of natural disasters or exceptional emergencies beyond the control of the state which significantly affect the financial situation of the state, a deviation from paragraph 1 shall be allowed. In this respect, an appropriate redemption regulation must be stipulated. The credits must be repaid within a reasonable period of time.

(4) Any borrowing and the acceptance of guarantees, sureties or other warranties which may result in expenses in future budget years shall require an authorisation by law the amount of which has been or can be determined.

(5) More details shall be governed by the respective law.

#### **Art. 83**

(1) The municipalities' own sphere of activity (Art. 11 (2)) shall in particular cover the administration of the municipal property and the municipal undertakings; the local traffic including road construction; the supply of water, light, gas and electricity for the population; measures for securing the food supply; town planning, building and supervision of housing; local police, fire protection; promoting local culture; elementary and vocational school systems and adult education; guardianship and public welfare; the local health system; marriage guidance, advice for mothers and baby care; school hygiene and the physical training of young people; public baths; funeral services; the preservation of local monuments and buildings.

(2) <sup>1</sup> The municipalities shall be obliged to prepare a budget. <sup>2</sup> They shall be entitled to meet their expenditure requirements by levying public taxes. <sup>3</sup> The state shall guarantee adequate funding to the municipalities within the framework of its financial capacity.

(3) <sup>1</sup> If the state delegates tasks to the municipalities, if the state obliges them to perform the tasks within their own sphere of activity or if the state has special requirements regarding the performance of existing or new tasks, it must simultaneously adopt provisions for covering the costs. <sup>2</sup> If the performance of those tasks results in an extra burden on the municipalities, adequate financial compensation must be provided.

(4) <sup>1</sup> The municipalities shall be subject to supervision by the state authorities. <sup>2</sup> In any matters of the municipalities' own sphere of activity, the state shall only monitor the fulfilment of the legal duties and the compliance with the legal regulations by the municipalities. <sup>3</sup> In the matters of the delegated sphere of activity, the municipalities shall additionally be bound by the instructions of the superordinate state authorities. <sup>4</sup> The state shall protect the municipalities in the execution of their tasks.

(5) Administrative disputes between the municipalities and the state shall be decided by the administrative courts.

(6) The provisions under paragraphs 2 to 5 shall also apply to the associations of municipalities.

(7) <sup>1</sup> The central municipal associations should be heard in good time before any matters affecting the municipalities or associations of municipalities are regulated by law or statutory instrument. <sup>2</sup> The State Government shall agree on a consultation procedure with the central municipal associations in order to implement the principle of connexity (paragraph 3).

*Paragraph 2 sentence 2 has been incorporated by the act dated 11 November 2013 (GVBl. page 642).*

*Paragraphs 3 and 7 have been revised by the act dated 10 November 2003 (GVBl. page 816).*

*Cf. in this respect Art. 11 BV (Bavarian Constitution), furthermore Art. 28 para. 2 GG.*

*With regard to paragraph 2 sentence 2, cf. Kommunalabgabengesetz (KAG) [Local Tax Act] in the version announced on 4 April 1993 (GVBl. page 264, BayRS 2024-1-I), most recently amended by the acts dated 24 April 2001 (GVBl. page 140) and 25 July 2002 (GVBl. 322).*

## **Section 8**

### **The judicature**

#### **Art. 84**

The generally accepted principles of international law shall be considered as a component of the domestic law.

#### **Art. 85**

The judges shall only be subject to the law.

#### **Art. 86**

(1) <sup>1</sup> Extraordinary courts shall be inadmissible. <sup>2</sup> No person shall be removed from the jurisdiction of his/her lawful judge.

(2) Courts for particular fields of law shall only be admissible by virtue of legal provisions.

#### **Art. 87**

(1) <sup>1</sup> The judges cannot be removed from their office, whether permanently or temporarily, or be transferred or retired against their will other than by a court decision and this shall only be possible for reasons and in compliance with the formal requirements stipulated by law. <sup>2</sup> Stipulating an age limit by law shall be admissible.

(2) The judges of the ordinary courts shall be appointed for life.

#### **Art. 88**

<sup>1</sup> Men and women of the people shall participate in the judicature. <sup>2</sup> Their involvement and the manner of their selection shall be governed by law.

#### **Art. 89**

The public prosecutors at the criminal courts shall be bound by the instructions of their superordinate authority.

#### **Art. 90**

<sup>1</sup> The hearings in all courts shall be public. <sup>2</sup> If national security or public morality is endangered, the general public may be excluded by means of a court decision.

#### **Art. 91**

(1) In the courts everyone shall have a right to be heard.

(2) Any person accused of a criminal offence can appoint a defence counsel.

**Art. 92**

If the judge holds a law to be unconstitutional, the judge must seek a decision of the Higher Administrative Court.

**Art. 93**

Administrative disputes shall be decided by the administrative courts.

## **Section 9**

### **The civil servants**

#### **Art. 94**

(1) The civil servants of the state, the municipalities and the associations of municipalities shall be elected by the people or appointed by the competent authorities in accordance with the laws.

(2) <sup>1</sup> All citizens entitled to vote shall be eligible for the public offices depending on their personal suitability, their qualifications and achievements, which shall be determined by way of competitive examinations, insofar as possible. <sup>2</sup> The same principles shall apply to promotions of civil servants.

#### **Art. 95**

(1) <sup>1</sup> The basic principles of the civil service shall be governed by law. <sup>2</sup> In principle, the civil service system shall be maintained.

(2) The civil servants shall have recourse to the ordinary courts for asserting their pecuniary claims.

(3) A complaints procedure and a re-hearing must be available against each disciplinary penal order.

(4) <sup>1</sup> Unfavourable facts may only be recorded in the personal files of the civil servant after the civil servant has had the opportunity to comment on them. <sup>2</sup> The comments of the civil servant must also be included in the personal file.

(5) Each civil servant shall have the right to inspect his/her personal files at any time.

#### **Art. 96**

<sup>1</sup> Civil servants shall be the servants of the entire people rather than of an individual party.

<sup>2</sup> The civil servant must declare his/her support of the democratic constitutional state at all times and must be loyal to it in the course as well as outside of the performance of his/her duties.

#### **Art. 97**

<sup>1</sup> If a civil servant negligently violates his/her official duties vis-à-vis another party in exercise of the state authority entrusted to him/her, the liability for the consequences shall rest with the state or whichever public body employs the civil servant. <sup>2</sup> The right of recourse to the civil servant shall remain reserved. <sup>3</sup> The recourse to the ordinary courts must not be precluded.

## **Second part**

### **Basic rights and duties**

#### **Art. 98**

<sup>1</sup> In principle, the basic rights guaranteed by the Constitution must not be restricted.

<sup>2</sup> Restrictions by law shall only be admissible if this is absolutely necessary for the public safety, morality, health and welfare. <sup>3</sup> Other restrictions shall only be admissible subject to the prerequisites of Art. 48. <sup>4</sup> The Higher Administrative Court must declare void any laws and ordinances which restrict a basic right in violation of the Constitution.

#### **Art. 99**

<sup>1</sup> The Constitution shall serve the protection and the mental and physical wellbeing of all residents. <sup>2</sup> Its protection against any attacks from without shall be guaranteed by international law and from within by laws, the judicature and the police.

#### **Art. 100**

<sup>1</sup> Human dignity shall be inviolable. <sup>2</sup> To respect and protect it shall be the duty of all state authority.

#### **Art. 101**

Everyone shall have the freedom to do whatever does not harm others within the limits of the laws and the morality.

#### **Art. 102**

(1) The freedom of the person shall be inviolable.

(2) <sup>1</sup> Anybody who is detained by a public body must be brought before the competent judge at the latest on the day following the detention. <sup>2</sup> The judge must inform the detained person about which authority ordered the detention and the reasons for the detention and must give such person the opportunity to raise objections against the detention. <sup>3</sup> The judge must either issue an arrest warrant against the detained person or must free him/her without delay.

#### **Art. 103**

(1) The property right and the right to inheritance shall be guaranteed.

(2) The rules governing the system of property ownership and the use of property must also serve the public good.

#### **Art. 104**

(1) An act can only be punished if it constituted a criminal offence before being committed.

(2) No person may be punished twice for the same act under the law.



#### **Art. 105**

Foreigners who are subject to persecution abroad in violation of the basic rights stipulated in this Constitution and who have taken refuge in Bavaria must not be extradited or expelled.

#### **Art. 106**

- (1) Each resident of Bavaria shall be entitled to adequate housing.
- (2) The furtherance of the construction of low-priced social housing shall be the task of the state and the municipalities.
- (3) The home shall be a sanctuary for everyone and shall be inviolable.

#### **Art. 107**

- (1) The freedom of religion and conscience shall be guaranteed.
- (2) The undisturbed practice of religion shall be protected by the state.
- (3) <sup>1</sup> The enjoyment of civil and political rights shall be neither dependent upon nor restricted by one's religious creed. <sup>2</sup> It must not impair the civil and political duties.
- (4) The eligibility for public offices shall be independent from the religious creed.
- (5) <sup>1</sup> No person shall be required to disclose his/her religious beliefs. <sup>2</sup> The authorities shall only be entitled to inquire into the membership in a religious community to the extent that rights and duties depend upon it or that a statistical survey mandated by law requires this.
- (6) No person may be compelled to perform a religious act or to participate in religious exercises or ceremonies or to take a religious form of oath.

#### **Art. 108**

The arts and sciences and the teaching thereof shall be free.

#### **Art. 109**

- (1) <sup>1</sup> All residents of Bavaria shall have the right to move freely. <sup>2</sup> They shall have the right to stay and to reside at any place, to purchase land and to follow any occupation.
- (2) All residents of Bavaria shall be entitled to emigrate to countries outside of German territory.

#### **Art. 110**

- (1) <sup>1</sup> Each resident of Bavaria shall have the right to express his/her opinion orally, in writing, in print, visually or by other means. <sup>2</sup> This right must not be prevented by any employment contract or contract of service and nobody may disadvantage a person who exercises this right.
- (2) The combat of degrading and obscene materials shall be the responsibility of the state and the municipalities.

#### **Art. 111**

- (1) It shall be the responsibility of the press to truthfully report on events, circumstances, institutions and public persons in the services of the democratic idea.

(2) <sup>1</sup> Pre-censorship shall be prohibited. <sup>2</sup> A court decision may be sought against police orders affecting the freedom of the press.

#### **Art. 111a**

(1) <sup>1</sup> The freedom of broadcasting shall be guaranteed. <sup>2</sup> Broadcasting shall serve the purpose of informing the public by means of truthful, comprehensive and impartial reporting and the dissemination of opinions. <sup>3</sup> It shall contribute to education and entertainment. <sup>4</sup> Broadcasting services must respect the free democratic basic order, human dignity, and religious and philosophical beliefs. <sup>5</sup> The glorification of violence and any presentation that grossly offends general public morality shall be inadmissible. <sup>6</sup> Freedom of opinion, objectivity, mutual respect, protection against defamation as well as a balance in the overall programming must be guaranteed.

(2) <sup>1</sup> The broadcasting services shall be operated in public responsibility and by an organising institution under public law. <sup>2</sup> The respective significant political, philosophical and social groups must be involved in the control of the broadcasting to a reasonable extent. <sup>3</sup> The percentage of the representatives delegated by the State Government, the Bavarian State Parliament and the Senate<sup>1)</sup> to the control bodies must not exceed one third. <sup>4</sup> The philosophical and social groups shall elect or appoint their own representatives.

(3) Further details shall be governed by the respective law.

#### **Footnotes**

1) See footnote regarding Art. 34 to 42.

#### **Art. 112**

(1) The secrecy of letters, post, telegraphs and telephone communications shall be inviolable.

(2) Restrictions of the reception of broadcasting as well as the receipt of printed matters shall be inadmissible.

#### **Art. 113**

All residents of Bavaria shall be entitled to assemble in a peaceful and unarmed manner without prior notification or special permission.

#### **Art. 114**

(1) All residents of Bavaria shall be entitled to form associations and corporations.

(2) Associations and corporations with illegal or immoral purposes or using illegal or immoral means or which intend to destroy civil freedoms or to use force against the people, the state or the Constitution can be prohibited.

(3) Each association shall be free to acquire legal capacity in accordance with the civil law.

#### **Art. 115**

(1) All residents of Bavaria shall be entitled to address requests or complaints to the competent authorities or the Bavarian State Parliament in writing.

(2) The rights of the Bavarian State Parliament to review complaints shall be governed by law.

#### **Art. 116**

All citizens, without discrimination, shall be eligible for public offices according to their qualifications and achievements.

#### **Art. 117**

<sup>1</sup> The undisturbed enjoyment of freedom of every person shall depend on the fulfilment of the duty of loyalty towards the people and the Constitution, the state and the laws by all. <sup>2</sup> Everyone must respect and comply with the Constitution and the laws, must take an interest in public affairs and must use his/her physical and mental powers in the interest of the common wellbeing.

#### **Art. 118**

(1) <sup>1</sup> Everyone shall be equal before the law. <sup>2</sup> The laws shall bind everyone in the same manner and everyone shall enjoy the protection of the laws in the same manner.

(2) <sup>1</sup> Women and men shall have equal rights. <sup>2</sup> The state shall further the real enforcement of the equality of rights of women and men and shall work towards the elimination of existing disadvantages.

(3) <sup>1</sup> All privileges and disadvantages under public law due to birth or standing shall be abolished.

<sup>2</sup> Titles of nobility shall only be considered parts of the name; they may no longer be conferred and can no longer be acquired by adoption.

(4) <sup>1</sup> Titles may only be conferred if they are associated with an office or a profession. <sup>2</sup> They should not be used outside of the exercise of the office or the profession. <sup>3</sup> Academic degrees shall not be covered by this prohibition.

(5) Decorations and medals may only be awarded by the state in accordance with the laws.

#### **Art. 118a**

<sup>1</sup> People with disabilities must not be disadvantaged. <sup>2</sup> The state shall advocate equal conditions of living for people with and without disabilities.

#### **Art. 119**

The incitement of racial and ethnic hatred shall be prohibited and punishable.

#### **Art. 120**

Each resident of Bavaria who feels that his/her constitutional rights have been violated by an authority may have recourse to the Bavarian Constitutional Court.

### **Art. 121**

<sup>1</sup> All residents of Bavaria shall be obliged to accept honorary offices, in particular as legal guardian, orphan board member, youth officer, lay judge and juror. <sup>2</sup> The state and the municipalities shall promote voluntary work for the common wellbeing. <sup>3</sup> Further details shall be stipulated by the laws.

*Sentence 2 has been incorporated by the act dated 11 November 2013 (GVBl. page 639).*

### **Art. 122**

In the event of accidents, emergencies or natural disasters and among neighbours, everyone shall be obliged to lend assistance to others in accordance with the laws.

### **Art. 123**

(1) Everyone shall be required to bear the burden of public charges in proportion to his/her income and property and taking into account his/her maintenance duties.

(2) Consumption taxes and taxes based on possession must be in an appropriate relation to each other.

(3) <sup>1</sup> The inheritance tax shall also serve the purpose of preventing the amassing of huge fortunes by individuals. <sup>2</sup> It shall be staged according to the degree of kinship.

**Third part**  
**Community life**

**Section 1**  
**Marriage, family and children**

**Art. 124**

- (1) Marriage and family shall be the natural and moral basis of the human community and shall enjoy the special protection of the state.
- (2) In principle, men and women shall have the same civil rights and duties in marriage.

**Art. 125**

- (1) <sup>1</sup> Children are the most valuable resource of a people. <sup>2</sup> They shall be entitled to develop into self-determined and responsible persons. <sup>3</sup> Each mother shall be entitled to the protection and care of the state.
- (2) The maintenance of the purity of the family, its health and the social furtherance of the family shall be the common task of the state and the municipalities.
- (3) Families with many children shall be entitled to appropriate care; in particular they shall be entitled to healthy housing.

**Art. 126**

- (1) <sup>1</sup> Parents shall have the natural right and the paramount duty to bring up their children in soundness of body, mind and spirit. <sup>2</sup> The state and the municipalities must support the parents in their efforts. <sup>3</sup> The will of the parents shall be authoritative in questions involving the personal upbringing.
- (2) Children born outside marriage shall be entitled to furtherance in the same way as children born in marriage.
- (3) <sup>1</sup> Children and adolescents must be protected against exploitation and moral, mental and physical neglect and abuse by measures and institutions created by the state and the municipalities. <sup>2</sup> The upbringing in a community home shall only be admissible in accordance with the legal provisions.

**Art. 127**

The right of the religious communities and officially recognised philosophical communities to exert an appropriate influence in the upbringing of the children of their creed or philosophy shall be guaranteed without prejudice to the parents' right to bring up their children.

## **Section 2**

### **Education and school, protection of the natural basis of life and cultural traditions**

#### **Art. 128**

- (1) Each resident of Bavaria shall be entitled to receive education according to his/her discernible skills and his/her inner calling.
- (2) Gifted children must be enabled to attend schools and institutions of higher education with public funds, if need be.

#### **Art. 129**

- (1) All children shall be obliged to attend elementary and vocational schools.
- (2) Tuition in these schools shall be free of charge.

#### **Art. 130**

- (1) The entire school and educational system shall be supervised by the state; the state can involve the municipalities in this task.
- (2) The supervision of schools shall be performed by full-time professionally trained civil servants.

#### **Art. 131**

- (1) Schools shall not only impart knowledge and skills but also develop the nobleness of the heart and the character.
- (2) The paramount educational goals shall be the reverence of God, respect of religious beliefs and human dignity, self-composure, a sense of responsibility and a willingness to accept responsibility, readiness to help others, open-mindedness for everything that is true, good and beautiful and a sense of responsibility toward nature and the environment.
- (3) The pupils must be educated in the spirit of democracy, to love their Bavarian homeland and the German people and in a spirit of international reconciliation.
- (4) In addition, the girls and boys must in particular be instructed in baby care, the upbringing of children and in housekeeping.

#### **Art. 132**

The structure of the school system shall reflect the diversity of careers. A child's aptitude, interests, performance and inner calling shall be authoritative for his/her enrolment in a school rather than the economic and social position of the child's parents.

### **Art. 133**

(1) <sup>1</sup> The public institutions must ensure the education of young people. <sup>2</sup> The state and municipalities shall work together in establishing those institutions. <sup>3</sup> Recognised religious communities and philosophical communities shall also be entitled to establish schools.

(2) In principle, the teachers at state schools shall have the same rights and duties as civil servants.

### **Art. 134**

(1) <sup>1</sup> Private schools must meet the same requirements as state schools. <sup>2</sup> They can only be established and operated with the permission of the state.

(2) The permission must be granted if the educational objectives (Art. 131) and the facilities as well as the academic training of the teachers at those schools do not fall short of equivalent state schools, if the economic and legal position of the teachers is sufficiently secured and if there are no concerns with regard to the person of the schools' headmaster.

(3) <sup>1</sup> Private elementary schools shall only be permitted under special prerequisites. <sup>2</sup> These prerequisites shall in particular be given if a state school of the respective creed or philosophical belief is not available to the parents or legal guardians.

### **Art. 135**

<sup>1</sup> The state elementary schools shall be non-denominational schools for all children required to attend elementary school. <sup>2</sup> The children shall be taught and educated in accordance with the principles of the Christian creed. <sup>3</sup> Further details shall be governed by the Bavarian Elementary School Act.

### **Art. 136**

(1) The religious beliefs of everybody must be respected during lessons in all schools.

(2) <sup>1</sup> Religious education shall be a subject in all elementary schools, vocational schools and institutions of secondary and higher education. <sup>2</sup> It shall be taught in accordance with the principles of the respective religious community.

(3) No teacher can be compelled to teach religious education or be prevented from doing so.

(4) The teachers must be authorised by the religious community to teach religious education.

(5) The necessary class rooms must be made available.

### **Art. 137**

(1) The attendance of religious education and the participation in church practices and ceremonies shall be subject to a declaration of intention of the parents or legal guardians or to a declaration of intention of the pupils aged 18 and older.

(2) Instruction in generally accepted principles of morality must be given to those pupils who do not attend religious education.

### **Art. 138**

(1) <sup>1</sup> The establishment and administration of the institutions of higher education shall be the responsibility of the state. <sup>2</sup> The church institutions of higher education (Art. 150 (1)) shall be an exception. <sup>3</sup> Other exceptions require permission from the state.

(2) <sup>1</sup> The institutions of higher education shall have a right of self-administration. <sup>2</sup> The students must be involved in such self-administration as far as their affairs are concerned.

#### **Art. 139**

Adult education must be furthered by adult education centres and other institutions supported by public funds.

#### **Art. 140**

- (1) Arts and science must be furthered by the state and the municipalities.
- (2) In particular, they must provide resources for supporting creative artists, scholars and writers who can demonstrate their serious artistic or cultural activity.
- (3) Cultural life and sport must be furthered by the state and the municipalities.

#### **Art. 141**

(1) <sup>1</sup> The protection of the natural basis of life shall be the duty of each individual and the state community, bearing in mind the responsibility for future generations. <sup>2</sup> Animals shall be respected and protected as living beings and fellow creatures. <sup>3</sup> Natural resources must be treated with care and used economically. <sup>4</sup> One of the paramount tasks of the state, the municipalities and bodies corporate under public law shall also be

to protect ground, water and air as the natural basis of life, to remedy or compensate for any damage which may occur, if possible, and to ensure that energy is used as economically as possible,

to preserve and continuously improve the efficiency of the ecosystem,

to protect the forest due to its particular importance for the ecosystem and to remedy or compensate for any damage which may occur,

to preserve and treat with care the indigenous animal and plant species, their natural habitats as well as characteristic natural sites and landscapes.

(2) It shall be the task of the state, the municipalities and the bodies corporate under public law

to protect and care for art, historical and natural monuments and the landscape,

to restore degraded artistic and historic monuments to their previous purpose as far as possible,

to prevent the outflow of German art treasures to other countries.

(3) <sup>1</sup> The enjoyment of natural beauty and recreation in the outdoors, in particular the access to forests and mountain meadows, the use of waterways and lakes and the appropriation of wild fruit to the extent customary in the respective region shall be permitted to every person. <sup>2</sup> In this respect, every person shall be obliged to treat nature and the landscape with care. <sup>3</sup> The state and the municipalities shall be entitled and obliged to maintain free access to mountains, lakes, rivers and other beautiful sceneries and to create free access by restricting property rights and to create hiking trails and recreational parks, if need be.



**Section 3**  
**Religion and religious communities**

**Art. 142**

- (1) There shall be no state church.
- (2) The freedom of assembly for domestic worship, public rituals and religious communities and their association within Bavaria shall not be subject to any restrictions within the framework of the generally applicable laws.
- (3) <sup>1</sup> Churches and recognised religious communities and philosophical communities with aims in compliance with the generally applicable laws shall be free from interference by the state. <sup>2</sup> They shall autonomously order and administer their affairs within the limits of the laws applicable to everybody. <sup>3</sup> They shall award their offices without the involvement of the state or the political municipality.

**Art. 143**

- (1) Religious communities and philosophical communities shall acquire legal capacity in accordance with the regulations of civil law.
- (2) <sup>1</sup> Churches and recognised religious communities who previously were bodies corporate under public law shall maintain their status. <sup>2</sup> Other recognised religious communities and other philosophical communities with aims in compliance with the generally applicable laws that have existed for five years must be granted the same rights on application.
- (3) Churches and religious communities and philosophical communities that are bodies corporate under public law may levy taxes based on the public tax list.

**Art. 144**

- (1) Clerics shall enjoy the protection of the state in the exercise of their official duties.
- (2) Any public defamation of a religion, its institutions, clerics and members of religious orders in their religious capacity shall be prohibited and punishable.
- (3) Courts and other authorities cannot compel clerics to provide information about facts which had been entrusted to them in their pastoral activity.

**Art. 145**

- (1) The previous benefits of the state or the political municipalities for the religious communities based on a law, contract or other title shall be maintained.
- (2) New voluntary benefits of the state, the political municipalities and the associations of municipalities for a religious community shall be covered by surcharges to the state taxes and assessments of the members of the respective religious community.

**Art. 146**

The property and other rights of the religious communities, religious associations, orders, congregations or philosophical communities in institutions, foundations and other assets intended for purposes of worship, education or charity shall be guaranteed.

#### **Art. 147**

Sundays and officially recognised holidays shall be legally protected as days of spiritual edification and rest from work.

#### **Art. 148**

If there is a need for worship and pastoral care in hospitals, penal institutions or other public institutions, the religious communities must be permitted, but in no way compelled, to perform religious acts.

#### **Art. 149**

(1) <sup>1</sup> The municipalities must ensure that every deceased person can be buried in a fitting manner. <sup>2</sup> The involvement of the religious communities shall be determined by themselves.

(2) The burial of persons of different faith in a cemetery intended for particular religious communities must be permitted in the forms that are customary for them and without segregation if another suitable burial site is not available.

(3) In all other respects, the simultaneous use of the churches and cemeteries shall be governed by the previous law, unless changes have been made by a law.

#### **Art. 150**

(1) The churches shall be entitled to provide the training and further education for their clerics in their own church institutions of higher education.

(2) The theological departments at the institutions of higher education shall be maintained.

**Fourth part**  
**Economy and work**

**Section 1**  
**The economic system**

**Art. 151**

(1) The entirety of the economic activity shall serve the public good, in particular the guarantee of a decent existence for every person and the gradual increase of the standard of living of all social classes.

(2) <sup>1</sup> Within the framework of those purposes, the freedom of contract shall apply in accordance with the law. <sup>2</sup> The freedom of the development of personal decision-making power and the freedom of the independent economic activity of individuals shall be acknowledged on principle. <sup>3</sup> The economic freedom of the individual shall be limited by the consideration for others and the moral demands of the public good.

<sup>4</sup> Legal transactions which damage the community and which are immoral, in particular any economically exploitative contracts, shall be illegal and void.

**Art. 152**

<sup>1</sup> The ordered production and distribution of economic goods in order to meet the needs of the people shall be supervised by the state. <sup>2</sup> The state shall be responsible for ensuring the electricity supply in Bavaria.

**Art. 153**

<sup>1</sup> Independent small and medium-sized enterprises in agriculture, craft, commerce, trade and industry must be furthered and protected against excessive burdening and absorptions. <sup>2</sup> They must be supported by the state in their efforts to secure their economic freedom and independence and to develop by using self-help cooperatives. <sup>3</sup> The advancement of capable workers from paid employment to a self-employed status must be furthered.

**Art. 154**

<sup>1</sup> The economic self-governing bodies democratically elected from among the ranks of the professional associations shall participate in the task of shaping the economy. <sup>2</sup> Further details shall be governed by the respective law.

**Art. 155**

<sup>1</sup> In order to satisfy the economic needs of all residents as equally as possible, particular areas of need can be formed by law, taking into account the vital interests of independent productive enterprises, and bodies corporate under public law on a cooperative basis can be established for this purpose. <sup>2</sup> They shall be entitled to self-administration within the framework of the laws.

#### **Art. 156**

<sup>1</sup> The amalgamation of enterprises for the purpose of concentrating their economic power and forming monopolies shall be inadmissible. <sup>2</sup> Cartels, groups of companies and price agreements which aim at the exploitation of the broad mass of the population or the destruction of medium-sized enterprises shall in particular be prohibited.

#### **Art. 157**

(1) The accumulation of capital shall not be an end in itself but a means for developing the national economy.

(2) The finance and credit system shall serve the creation of value and the satisfaction of the needs of all residents.

## **Section 2**

### **Property**

#### **Art. 158**

<sup>1</sup> Property shall entail obligations vis-à-vis the general public. <sup>2</sup> Manifest misuse of the right of property or possession shall not be protected by law.

#### **Art. 159**

<sup>1</sup> Expropriation may only be ordered in the cases stipulated by law and in return for an appropriate compensation; this compensation can also be granted in the form of a pension. <sup>2</sup> In the event of disputes regarding the amount of the compensation, recourse may be had to the ordinary courts.

#### **Art. 160**

(1) Bodies corporate or cooperatives under public law shall usually be entitled to own mineral resources which are of major importance for the general economy, important sources of energy, railways and other traffic infrastructure and means of transport, water pipes and electric supply companies.

(2) <sup>1</sup> Means of production, major banks and insurance companies that are essential for the general public can be transferred to public ownership if this is necessary in the interest of the population as a whole. <sup>2</sup> The transfer shall take place on a legal basis and in return for an appropriate compensation.

(3) Enterprises in public ownership can be managed as private enterprises if this is consistent with their economic purpose.

#### **Art. 161**

(1) <sup>1</sup> The distribution and use of land shall be supervised by the state. <sup>2</sup> Any misuse must be ended.

(2) Any increase of the value of the land which arises without special effort or capital expenditure of the owner shall be utilised for the general public.

#### **Art. 162**

The intellectual property, the copyright, the right of inventors and artists shall be protected and ensured by the state.

### **Section 3**

#### **Agriculture**

##### **Art. 163**

- (1) <sup>1</sup> The freedom of land shall be guaranteed. <sup>2</sup> Farmers shall not be bound to the land.
- (2) The land used for agriculture and forestry of all sizes shall serve the people as a whole.
- (3) The ownership of land by farmers shall be guaranteed.
- (4) <sup>1</sup> Farmland shall not be used for other purposes. <sup>2</sup> The purchase of land used for agriculture and forestry shall depend on proof of suitability for proper husbandry; it must not be used as a mere capital investment.
- (5) Expropriations of agricultural and forestry land shall only be admissible for urgent purposes of the common good, in particular for settlement, in return for an appropriate compensation and in a manner preserving the model farms and model undertakings.

##### **Art. 164**

- (1) The agricultural population shall be guaranteed a decent income on their inherited land by means of application of the technological progress in their area of life, improvement of their vocational training, maintaining the agricultural cooperatives and the furtherance of the production and sales.
- (2) <sup>1</sup> An appropriate income from agriculture shall be ensured by prices and wages corresponding to the general economic situation and by market regulations. <sup>2</sup> These market regulations shall be based on agreements between the organisations of the producers, distributors and consumers.

##### **Art. 165**

Excessive indebtedness of agricultural undertakings must be prevented by the legislation as far as possible.

## **Section 4**

### **Work**

#### **Art. 166**

- (1) Work is the source of the prosperity of the people and shall be subject to the special protection of the state.
- (2) Every person shall be entitled to earn a decent living by working.
- (3) Every person shall have the right and the duty to choose work that is appropriate for his/her abilities and education in the service of the general public; this shall be specified in more detail by the respective laws.

#### **Art. 167**

- (1) Human labour is the most valuable economic resource of a people and shall be protected against exploitation, operational hazards and other damage to health.
- (2) Exploitation resulting in damage to health shall be punishable as bodily injury.
- (3) The violation of health and safety protection provisions in undertakings shall be punished.

#### **Art. 168**

- (1) <sup>1</sup> All honest work shall have the same moral value and shall give rise to a claim for appropriate remuneration. <sup>2</sup> Men and women shall receive equal pay for equal work.
- (2) Unearned income of persons fit for work shall be subject to special taxes in accordance with the law.
- (3) Each resident of Bavaria who is incapacitated for work or for whom no job can be found shall be entitled to welfare.

#### **Art. 169**

- (1) Minimum wages can be fixed for each profession which enable the employee and his/her family a minimum standard of living which corresponds to the respective cultural circumstances.
- (2) The collective agreements between the employers' and employees' associations regarding the employment relationship shall be binding for all members of the associations and can be declared to be generally binding if this is required in the general interest.

#### **Art. 170**

- (1) The freedom of association in order to maintain and further the working conditions and economic conditions shall be guaranteed for every person and all professions.
- (2) All agreements and measures which seek to restrict or impair the freedom of association shall be illegal and void.

#### **Art. 171**

Every person shall be entitled to protection against the vicissitudes of life by means of sufficient social security within the framework of the laws.

#### **Art. 172**

The rights and duties of the employees and employers shall be governed by a special law.

#### **Art. 173**

Special provisions on the maximum daily and weekly labour hours shall be enacted by law.

#### **Art. 174**

(1) <sup>1</sup> Each employee shall have a right to rest. <sup>2</sup> This right shall be guaranteed on principle by a free weekend and by annual holiday with continued payment of remuneration. <sup>3</sup> The special circumstances of individual professions shall be governed by a law. <sup>4</sup> The loss of pay on bank holidays must be compensated.

(2) The first of May shall be a bank holiday.

#### **Art. 175**

<sup>1</sup> The employees shall have a right of codetermination in all economic undertakings with regard to all matters affecting them and they shall have direct influence on the management and the administration in undertakings of significant importance. <sup>2</sup> For this purpose, they shall form works councils in accordance with a special law. <sup>3</sup> This law shall also include provisions on the involvement of the works council members in the recruiting and dismissal of employees.

#### **Art. 176**

The employees, as equal members of the economy, shall participate in the tasks of shaping the economy together with the other active members of the economy.

#### **Art. 177**

(1) Labour disputes shall be decided by the labour courts, which shall be composed of an equal number of employees and employers and an impartial chairperson.

(2) Arbitral awards in labour disputes can be declared to be generally binding in accordance with the existing laws.



## **Final and transitional provisions**

### **Art. 178**

<sup>1</sup> Bavaria will join a future German democratic federal state. <sup>2</sup> It shall be based on a voluntary federation of the German individual states; the constitutionally separate existence of those states must be ensured.

### **Art. 179**

<sup>1</sup> The social, economic and cultural bodies, self-governing bodies of the economy and the organisations of producers, distributors and consumers (Art. 154, 155, 164) shall not be public authorities and they must not exercise any state powers. <sup>2</sup> Compulsory membership in such bodies and organisations shall be precluded.

### **Art. 180**

Until a German democratic federal state is established and if absolutely imperative, the Bavarian State Parliament shall be authorised to cede responsibilities of the state of Bavaria in the fields of foreign relations, economy, nutrition, finance and transportation to the Council of the Minister-Presidents of the states in the US zone or other German common institutions of several states or zones with the consent of the Bavarian State Parliament.

### **Art. 181**

The right of the Bavarian state to conclude state treaties within the framework of its responsibilities shall not be affected.

### **Art. 182**

The previously concluded state treaties, in particular the treaties with the Christian churches of 24 January 1925 shall remain in force.

### **Art. 183**

All those who were victims of the Nationalist Socialist regime due to their religious or political beliefs or their race shall be entitled to compensation within the framework of the legislation.

### **Art. 184**

The validity of laws enacted against National Socialism and militarism or which seek to eliminate their consequences shall not be affected or restricted by this Constitution.

### **Art. 185**

The old regions (administrative regions) with their seats of government shall be restored as soon as possible.

### **Art. 186**

(1) The Bavarian Constitution of 14 August 1919 shall be repealed.

(2) The other laws and ordinances shall remain in force for the time being to the extent that they do not conflict with this Constitution.

(3) Orders of the authorities which were made based on previous laws in a legal way shall remain valid until they are repealed by way of other orders or legislation.

**Art. 187**

All civil servants and public sector employees shall swear an oath on this Constitution.

**Art. 188**

Each pupil shall receive a copy of this Constitution before the end of his/her compulsory education.