

Chapter II

Federation and States

Article 20 [Basic Principles of State, Resistance]

- (1) The Federal Republic of Germany is a democratic and social federal state.
- (2) All state authority emanates from the people. ⁽²⁾It is being exercised by the people through elections and voting and by specific organs of the legislature, the executive power, and the judiciary.
- (3) Legislation is subject to the constitutional order; the executive and the judiciary are bound by law and justice.
- (4) All Germans have the right to resist any person seeking to abolish this constitutional order, should no other remedy be possible.³²

Article 20a [Protection of Natural Resources]³³

The state, also in its responsibility for future generations, protects the natural foundations of life and the animals³⁴ in the framework of the constitutional order, by legislation and, according to law and justice, by executive and judiciary.

Article 21 [Political Parties]

- (1) The political parties participate in the forming of the political will of the people. ⁽²⁾They may be freely established. ⁽³⁾Their internal organization must conform to democratic principles. ⁽⁴⁾They have to publicly account for the sources and use of their funds and for their assets.³⁵
- (2) Parties which, by reason of their aims or the behavior of their adherents, seek to impair or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany are unconstitutional. ⁽²⁾The Federal Constitutional Court decides on the question of unconstitutionality.
- (3) Details are regulated by federal statutes.

³² Paragraph IV inserted by 17th Amendment (24.6.68).

³³ Article 20a inserted by 42nd Amendment (27.10.94).

³⁴ Words "and the animals" inserted by 50th Amendment (26.7.2002).

³⁵ Words "and use" as well as "and for their assets" inserted by 35th Amendment (21.12.83).

Article 22 [Capital, Federal Flag]

(1) The capital of the Federal Republic of Germany is Berlin. ^[1]The representation of the whole state in the capital is a task of the federation. ^[2]Details are regulated by federal statute.³⁶

(2) The federal flag is black, red, and gold.³⁷

Article 23 [European Union]³⁸

(1) To realize a unified Europe, Germany participates in the development of the European Union which is bound to democratic, rule of law, social, and federal principles as well as the principle of subsidiarity and provides a protection of fundamental rights essentially equivalent to that of this Constitution. ^[1]The federation can, for this purpose and with the consent of the Senate [Bundesrat], delegate sovereign powers. ^[2]Article 79 II & III is applicable for the foundation of the European Union as well as for changes in its contractual bases and comparable regulations by which the content of this Constitution is changed or amended or by which such changes or amendments are authorized.

(2) The House of Representatives [Bundestag] and the States [Länder], by their representation in the Senate [Bundesrat], participate in matters of the European Union. ^[1]The Government has to thoroughly inform House of Representatives [Bundestag] and Senate [Bundesrat] at the earliest possible time.

(3) The Government allows for statements of the House of Representatives [Bundestag] before it takes part in drafting European Union laws. ^[2]The Government considers statements of the House of Representatives [Bundestag] during deliberations. ^[3]Detail are regulated by federal statute.

(4) The Senate [Bundesrat] has to be included in the deliberations of the House of Representatives [Bundestag] insofar as it would have to participate in a domestic measure or insofar as the States [Länder] would be accountable domestically.

³⁶ Paragraph I inserted by 52nd Amendment (28.8.06).

³⁷ Paragraph II was Paragraph I until 52nd Amendment (28.8.06).

³⁸ New version inserted by 38th Amendment (21.12.92). Original version had already been repealed by 36th Amendment (23.9.90), i.e., the unification amendment. The original version read: "This Basic Law will initially be in force in the States [Länder] Baden, Bavaria, Bremen, Greater-Berlin, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Württemberg-Baden and Württemberg-Hohenzollern. For other parts of Germany, it shall be set into force after their association."

- (5) Insofar as, in the area of exclusive legislative competence of the Federation, the interests of the States [Länder] are affected or insofar as, in all other cases, the Federation has legislative competence, the Government considers the statement of the Senate [Bundesrat].³⁹ If legislative competencies of the States [Länder], the installation of their agencies, or their procedures are centrally affected, the opinion of the Senate [Bundesrat] has to be considered as decisive for the Federation's deliberation; the responsibility of the Federation for the whole state has to be maintained in the process.⁴⁰ The consent of the Government is necessary in matters possibly resulting in higher expenses or lower revenues for the Federation.
- (6) Where exclusive legislative competencies of the States [Länder] are centrally affected in the areas of school education, culture, or broadcasting,³⁹ the exercise of the Federal Republic of Germany's rights as member state of the European Union is delegated to a representative of the States [Länder] assigned by the Senate [Bundesrat].⁴¹ These rights are exercised with participation of and in coordination with the Government; the responsibility of the Federation for the whole state has to be maintained in the process.
- (7) Details of Paragraphs IV to VI are regulated by a statute requiring the consent of the Senate [Bundesrat].

Article 24 [Collective Security System]

- (1) The Federation may by legislation transfer sovereign powers to intergovernmental institutions.
- (1a) Insofar as the States [Länder] are responsible for the exercise of state rights and the discharge of state duties, they can, with consent of the Government, delegate sovereign powers to institutions for neighborhood at state borders.⁴⁰
- (2) For the maintenance of peace, the Federation may join a system of mutual collective security; in doing so it will consent to such limitations upon its rights of sovereignty as will bring about and secure a peaceful and lasting order in Europe and among the nations of the world.
- (3) For the settlement of disputes between States [Länder], the Federation will accede to agreements concerning international arbitration of a general, comprehensive, and obligatory nature.

³⁹ Words "in the areas of school education, culture, or broadcasting" inserted by 52nd Amendment (28.8.06).

⁴⁰ Paragraph 1a inserted by 38th Amendment (21.12.92).

Article 25 [Public International Law]

The general rules of public international law constitute an integral part of federal law. ⁽¹⁾They take precedence over statutes and directly create rights and duties for the inhabitants of the federal territory.

Article 26 [Ban on War]

(1) Acts with the potential to and undertaken with intent to disturb the peaceful relations between nations, especially to prepare war or aggression, are unconstitutional. ⁽²⁾They have to be made a criminal offence.

(2) Weapons designed for warfare may not be manufactured, transported, or marketed except with the permission of the Government. ⁽³⁾Details are regulated by a federal statute.

Article 27 [Merchant Fleet]

All German merchant vessels form one merchant fleet.

Article 28 [Self-Government]

(1) The constitutional order in the States [Länder] must conform to the principles of the republican, democratic, and social state under the rule of law, within the meaning of this Constitution. ⁽²⁾In each of the States [Länder], counties, and communes, the people has to be represented by a body chosen in general, direct, free, equal, and secret elections. ⁽³⁾During elections in counties and communes, persons who possess the citizenship of a European Community country are eligible to vote and being elected according to the laws of the European Community.⁴¹ ⁽⁴⁾In communes, the communal assembly can take the place of an elected body.

(2) The communes must be guaranteed the right to regulate, on their own responsibility, all the affairs of the local community within the limits set by statute. ⁽²⁾Within the framework of their statutory functions, the associations of communes have such right to self-government as may be provided by statute. ⁽³⁾The right to self-government also encompasses the foundations of financial accountability; part of this foundation is the communes' right to raise their tax shares according to local economic performance.⁴²

⁴¹ Sentence 3 inserted by 38th Amendment (21.12.92).

⁴² Sentence 3 changed by 42nd Amendment (27.10.94), 44th Amendment (20.10.97).