

Constitution of the Land of Brandenburg



Constitution of the *Land* of Brandenburg

dated 20 August 1992

(Official Gazette I p. 298),

last amended by the Act dated 7 July 2009

(Official Gazette I p.191)

The *Landtag* adopted the draft of a *Land* Constitution on 14 April 1992.

The people of Brandenburg approved it in a referendum on 14 June 1992.

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Preamble

We, the citizens of the *Land* of Brandenburg, have given ourselves this Constitution in free self-determination,

in the spirit of the traditions of law, tolerance and solidarity in the Mark Brandenburg,

based on the peaceful changes in the autumn of 1989,

imbued with the will to safeguard human dignity and freedom, to organise community life based on social justice, to promote the well-being of all, to preserve and protect nature and the environment, and determined to fashion the *Land* of Brandenburg as a living member of the Federal Republic of Germany in a uniting Europe and in the One World.

Part 1: Basic principles

Article 1 (*Land* Brandenburg)

- (1) Brandenburg is a *Land* of the Federal Republic of Germany.
- (2) The *Land* is divided into municipalities and associations of municipalities.
- (3) The *Land* capital is Potsdam.

Article 2 (Principles of the Constitution)

- (1) Brandenburg is a free, social and democratic *Land*, governed by the rule of law, committed to peace and justice and to the protection of the natural environment and culture, which strives to cooperate with other peoples, in particular with its Polish neighbours.
- (2) All state authority shall be derived from the people.
- (3) The people of the *Land* of Brandenburg acknowledge the basic rights laid down in the Basic Law of the Federal Republic of Germany, in the European Convention for the Protection of Human Rights and Basic Freedoms, in the European Social Charter and in the international conventions on human rights.

(4) Legislation shall be exercised through referenda and the *Landtag*. Executive power shall lie in the hands of the *Land* government, administrative bodies and self-governing bodies. The dispensation of justice shall be entrusted to independent judges.

(5) The provisions of the Basic Law shall take precedence over those of the *Land* Constitution. The legislature shall be bound by Federal Law and the *Land* Constitution, the executive and judiciary by law and justice.

Article 3 (State citizens)

(1) All Germans as defined by paragraph 1 of Article 116 of the Basic Law with permanent residence in the *Land* of Brandenburg shall be citizens pursuant to this Constitution. All persons with permanent residence in the *Land* of Brandenburg shall be residents pursuant to this Constitution, independent of nationality.

(2) Germans as defined by the Basic Law shall have equal rights and duties in Brandenburg, insofar as a legal reservation for the citizens of Brandenburg does not exist

(3) Nationals of other countries and stateless persons with residence in the *Land* of Brandenburg shall be granted equality of status with Germans as defined by the Basic Law, insofar as this Constitution or laws do not stipulate otherwise.

Article 4 (*Land* colours and coat of arms)

The *Land* colours are red and white. The *Land* coat of arms is the red eagle of the Mark Brandenburg on a white background.

Part 2:

Basic rights and fundamental aims

Section 1: Validity and legal protection

Article 5 (Validity)

(1) The basic rights guaranteed to the individual and to social groups in this Constitution shall bind the legislature, the executive and the judiciary and, insofar as determined by this Constitution, third parties as directly applicable law.

(2) Insofar as a basic right may be restricted by law or pursuant to a law in accordance with this Constitution, the principle of commensurability shall be observed. A basic right shall never be infringed in its essential substance. The basic right shall be named in the restricting law, quoting the article.

(3) The basic rights shall also be valid for domestic legal entities, insofar as these rights are applicable to them in accordance with their nature.

Article 6 (Legal protection)

(1) If a person has his rights violated by the public authority, recourse to the courts shall be open to him.

(2) Any person shall be able to file a constitutional complaint with the *Land* Constitutional Court claiming that one of his basic rights guaranteed in this Constitution has been violated by the public authority. Details shall be laid down in a law, which may provide for the prior exhaustion of ordinary legal recourse and a special acceptance procedure.

(3) If the public authority violates a duty of public law for which it is responsible as regards another party, then its body shall be liable to the other party for the resulting damage in accordance with the law.

Section 2: Freedom, equality and dignity

Article 7 (Protection of human dignity)

- (1) Human dignity is inviolable. To respect and protect it shall be the duty of all state authority and the basis of every community of solidarity.
- (2) Each person shall owe the other the recognition of his dignity.

Article 8 (Right to life)

- (1) Every person shall have the right to life, physical integrity and respect for his dignity in dying. The rights to life and physical integrity may be interfered with only pursuant to a law.
- (2) Care for the protection of unborn life shall be provided in particular by comprehensive information, free advice and social assistance.
- (3) No one shall be subject to cruel, inhumane, humiliating treatment or punishment and, without his voluntary and express consent, to medical or scientific experiments.

Article 9 (Freedom of the person)

- (1) The freedom of the person is inviolable. It may only be restricted pursuant to law and only under consideration of the forms stipulated therein.
- (2) Only a judge may rule upon the permissibility and continuation of any deprivation of freedom. Prior to any judicial decision on the order or continuation of deprivation of freedom, the person concerned shall be given the opportunity to call in the legal counsel of his choice. A trusted person shall also be informed without delay; in the case of juveniles, the legal guardians shall have a right to be party to the proceedings.
- (3) In the case of any deprivation of freedom not based on a judicial order, a judicial hearing shall be held without delay, and at the latest within twenty-four hours, and a judicial decision shall be made at the latest by the end of the day following apprehension.
- (4) Persons in custody may neither be physically nor psychologically abused nor subjected to harassment.

Article 10 (Free development of the personality)

Every person shall have the right to the free development of his personality, insofar as he does not violate the rights of others and does not offend against the Constitution and laws in accordance with it.

Article 11 (Data protection)

(1) Every person shall have the right to decide for himself on the disclosure and use of his personal data, to have information on the storage of his personal data and to inspect files and other official documents, insofar as they concern him and the rights of a third party do not stand in the way. Personal data may only be collected, stored, processed, transmitted or otherwise used with the voluntary and express consent of the person concerned.

(2) Restrictions shall only be permitted in the overriding public interest by law or pursuant to a law within the framework of the purposes set down therein. The entitled party shall be informed of every collection of personal data, as soon as the purpose of the collection allows this.

(3) The Office for the Protection of the Constitution, to be established on the basis of regulations pursuant to federal legislation, shall be subject to a special parliamentary control. The Office shall not be entitled to any police powers. It may not request administrative assistance from the police force for which the Office itself is not authorised.

Article 12 (Equality)

(1) All persons shall be equal before the law. The public authority shall be prohibited from any arbitrariness and improper unequal treatment.

(2) No one may be favoured or disfavoured because of race, parentage, nationality, language, gender, sexual identity, social origin or status, disability, or religious, philosophical or political convictions.

(3) Women and men shall have equal rights. The *Land* shall be obliged to take effective measures to provide for the equal status of women and men in work, public life, education and training, the family and in the area of social security.

(4) The *Land*, the municipalities and the associations of municipalities shall be obliged to provide for equal standards of living for persons with and without disabilities.

Article 13 (Freedom of conscience, faith and creed)

- (1) Freedom of conscience and of faith, and freedom to profess a religious or philosophical creed, is inviolable; their undisturbed practice shall be guaranteed.
- (2) No one shall be obliged to reveal his religious or philosophical convictions. The public authorities shall have the right to ask about affiliation to a religious group only insofar as rights and duties are dependent upon this.
- (3) No one may be forced into participation in a religious or philosophical act or into the use of a religious form of oath.
- (4) Should a citizen be unable to fulfil his duties as a citizen because these duties go against his conscience, the *Land* shall, within the limits of feasibility, establish other, equally onerous duties for him. This does not apply to taxes.

Article 14 (Sundays and public holidays)

- (1) The *Land* shall safeguard Sundays and state-approved public holidays as days of rest.
- (2) The traditions associated with Sundays and public holidays shall be respected.
- (3) Details shall be regulated by a law.

Article 15 (Inviolability of the home)

- (1) The home is inviolable.
- (2) Searches may be authorised only by a judge or on the basis of a judicial decision or, in case of imminent danger, by other authorities designated by law and may be carried out only in the manner therein prescribed.
- (3) Interventions and restrictions shall otherwise only be permissible to avert a danger to the public or to the life of an individual or, pursuant to a law, to avert an acute danger to public safety and order, in particular to relieve a housing shortage, to combat the danger of an epidemic, or to protect children and young persons at risk.

Article 16 (Privacy of correspondence, post and telecommunications)

- (1) The privacy of correspondence, post and telecommunications is inviolable.
- (2) Interventions shall only be permissible pursuant to a law, which may provide for parliamentary control and which must provide for at least ex post facto judicial control.

Article 17 (Freedom of movement)

- (1) All people shall have the right to move freely.
- (2) The right to reside and settle in any place as desired may be restricted only by, or pursuant to, a law.

Article 18 (Right of asylum, ban on extradition and deportation)

- (1) Persons persecuted on political grounds shall have the right of asylum.
- (2) Foreigners may not be extradited or deported to a country where they may be threatened with the death penalty or torture.

Article 19 (Freedom of expression and the media)

- (1) Every person shall have the right to disseminate information and opinions freely in any form and to inform himself from generally accessible or other legally accessible sources. The validity of these rights in service and employment relationships may only be restricted pursuant to a law.
- (2) Freedom of the press, broadcasting, film and other mass media shall be guaranteed. The law shall guarantee by procedural regulations that the diversity of opinion present in society finds expression in the press and broadcasting.
- (3) Legal restrictions for the protection of children and young persons as well as personal honour and other important objects of legal protection shall be permissible. War propaganda and public discrimination which violates human dignity shall be forbidden.

(4) Radio and television have the task of contributing to the formation of public opinion by offering a variety of programmes. In addition to the public service broadcasting institutions, private stations shall be permitted pursuant to a law. At the same time, a maximum amount of diversity of opinion shall be guaranteed.

(5) Lawful journalistic activity may not be obstructed by duty to testify, search and seizure.

(6) There shall be no censorship.

Article 20 (Freedom of association)

(1) All persons shall have the right to form and join parties, associations, clubs, societies and other organisations. All organisations shall have the right to determine their internal regulations freely and independently.

(2) Organisations whose aims or activities are directed against the Constitution, the criminal laws or the concept of international understanding shall be subject to restrictions or shall be prohibited by law.

(3) Parties and citizens' movements that perform public functions and that have an influence on the formation of public opinion must comply with democratic principles in their internal regulations. Their freedom of participation in the development of informed political opinion shall be guaranteed.

Section 3: Rights of political influence

Article 21 (Right of political participation)

(1) The right of political participation shall be guaranteed.

(2) Every person shall have the same right of access to public office according to suitability, qualification and professional achievement, insofar as nothing else is provided for by law for the exercising of sovereign powers. Dismissal or disciplinary action on account of activity in citizens' initiatives, associations, religious societies or parties shall not be permitted.

(3) All persons shall have the right to join together in citizens' initiatives or associations to influence matters of public concern. These shall have the right to information from all state and municipal agencies and to submit their concerns to the responsible agencies and representative bodies. Details shall be regulated by a law.

(4) Every person shall have the right according to the law to inspect files and other official documents of the public authorities and administrative institutions of the *Land* and the municipalities, insofar as overriding public or private interests do not conflict with this.

(5) Any persons whose legally protected interests are affected by public or private schemes shall have the right to be a party to proceedings. Associations of persons affected shall also be entitled to this right. Details shall be regulated by a law.

Article 22 (Elections and referenda)

(1) Upon attaining the age of eighteen every citizen shall have the right to vote for the *Landtag* and the municipal representational bodies and to be elected to these. Other residents of Brandenburg shall be granted these rights as soon as and insofar as this is permitted by the Basic Law.

(2) Upon attaining the age of eighteen every citizen shall have the right to participate in popular initiatives, popular petitions for referenda and popular referenda, as well as residents' petitions, citizens' petitions for referenda and citizens' referenda. Other residents shall have the right to participate in popular initiatives and residents' petitions; the right to participate in popular petitions for referenda and popular referenda, as well as citizens' petitions for referenda and citizens' referenda, shall be granted to these persons as soon as and insofar as this is permitted by the Basic Law. The law may provide for the age limit for participation in popular initiatives and residents' petitions to be lowered to the age of sixteen.

(3) Elections and referenda shall be general, direct, equal, free and secret. Parties, political associations, list associations and individual citizens shall be entitled to participate in elections. Members of the *Landtag* shall be elected in accordance with a procedure which combines direct election of a candidate with the principles of proportional representation. Parliaments shall be entitled to scrutiny of elections and voting for their respective electoral areas. The divergent regulations agreed with the *Land* of Berlin in the treaty on the regulation of referenda in the *Länder* of Berlin and Brandenburg on the new delimitation treaty shall be applicable to the scrutiny of voting in a referendum

in accordance with paragraph 1 of Article 116. The decisions shall be subject to judicial review.

(4) Any person seeking election to a parliament shall be entitled to the leave necessary for his election campaign. No person may be prevented from seeking, accepting and exercising a parliamentary mandate. A termination of employment or dismissal shall only be permitted if there are circumstances that entitle the employer to a termination without notice.

(5) Details shall be regulated by a law. The law may specifically stipulate that only a person who has been a citizen or resident in the electoral or plebiscitary area for a certain period possesses the rights referred to in paragraphs 1 to 4. The law may also stipulate that civil servants, employees in the civil service and judges may not at the same time be a member of the *Landtag* or a municipal representational body.

Article 23 (Freedom of assembly)

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

(2) Outdoor assemblies and demonstrations may be rendered notifiable and, in the case of acute danger to public safety, may be restricted, dispersed or banned under strict adherence to the principle of commensurability.

Article 24 (Right of petition)

Every person shall have the right, jointly or individually, to approach the *Landtag*, the municipal self-governing bodies and any other state or municipal authority with ideas, criticism and complaints. There shall be a right to an official reply within a fair and reasonable period of time.

Section 4: Rights of the Sorbs (Wends)

Article 25 (Rights of the Sorbs [Wends])

(1) The right of the Sorb people to the protection, preservation and cultivation of their national identity and their traditional settlement area is guaranteed. The *Land*, the municipalities and associations of municipalities shall support the realisation of this right, in particular the cultural autonomy and the effective political participation of the Sorb people.

(2) The *Land* shall work towards safeguarding the cultural autonomy of the Sorbs beyond the border of the *Land*.

(3) The Sorbs shall have the right to the preservation and promotion of the Sorb language and culture in public life and their teaching in schools and children's day-care facilities.

(4) The Sorb language shall be included in the official signage in the settlement area of the Sorbs. The Sorb flag is blue, red and white.

(5) The rights of the Sorbs shall be regulated by law. This must guarantee that Sorb representatives are involved in matters of concern to the Sorbs, in particular in legislation.

Section 5: Marriage, family, cohabitation and children

Article 26 (Marriage, family and cohabitation)

(1) Marriage and the family shall be protected and supported by the community. Special public assistance shall be granted to mothers, single parents and large families as well as to families with disabled members.

(2) The need for the protection of other long-term forms of cohabitation shall be recognised.

(3) Any person who suffers psychological or physical violence in marriage, the family or other forms of cohabitation shall be entitled to help and protection from the community.

(4) Housework, the upbringing of children, domestic care for persons in need and occupational work shall be equally respected.

Article 27 (Protection and upbringing of children and young persons)

(1) Children, as autonomous persons, shall have the right to respect for their dignity.

(2) Parents shall have the right and the duty to bring up their children.

(3) Children shall enjoy the special protection of the state and society. Those who bring up children shall be entitled to fair and reasonable state assistance and social consideration.

(4) Children and young people shall be granted a legal status by law that does justice to their growing capacity to reason by recognising their increasing independence.

(5) Children and young persons shall be protected from physical and psychological neglect and abuse. If the welfare of children or young persons is endangered, in particular through failure on the part of the legal guardians, the community shall provide the necessary assistance and take the necessary legally stipulated measures.

(6) The *Land*, the municipalities and associations of municipalities shall support children's day-care centres and youth recreational and leisure facilities, independent of the operator.

(7) Every child shall be entitled, in accordance with the law, to upbringing, education, supervision and care in a children's day-care facility.

(8) Child labour shall be prohibited.

Section 6: Education, sciences, arts and sport

Article 28 (Principles of upbringing and education)

Upbringing and education have the purpose of promoting the development of the personality, independent thinking and action, respect for the dignity, the beliefs and the convictions of others, acknowledgement of democracy and freedom, the will to work towards social justice, peace and solidarity in the co-existence of cultures and peoples, and responsibility for nature and the environment.

Article 29 (Right to education)

(1) Every person shall have the right to education.

(2) The *Land* is obliged to create public educational institutions and to promote vocational training systems.

(3) Every person shall have the right to equal access to public educational institutions, regardless of his economic and social status and his political convictions. Particular support shall be given to gifted persons, socially disadvantaged persons and persons with disabilities.

Article 30 (School system)

- (1) School attendance shall be compulsory for all children.
- (2) The school system shall be under the supervision of the *Land*. Parents, teachers and pupils, as well as their representatives and associations, shall work together to shape it.
- (3) The school system must guarantee openness, transparency and variety in the curriculum.
- (4) The abilities, performance and inclinations of the pupil shall determine admission to secondary schools in addition to the wishes of the legal guardians.
- (5) The *Land* and the bodies of municipal self-government shall be obliged to establish and support schools. Education at these schools shall be free of charge. The free supply of learning and teaching resources shall be regulated by law.
- (6) The right to establish private schools shall be guaranteed in accordance with paragraph 4 of Article 7 of the Basic Law. The institutions are entitled to a public subsidy.

Article 31 (Academic freedom)

- (1) Scholarship, research and teaching shall be unrestricted.
- (2) Research shall be subject to legal restrictions if it is capable of violating human dignity or destroying the natural foundations of life.
- (3) Freedom of teaching shall not constitute a release from allegiance to the Constitution.

Article 32 (Institutions of higher education)

- (1) Institutions of higher education shall have the right to self-administration within the framework of the law. Teaching staff, other employees and students shall participate in this system.
- (2) The right to establish private institutions of higher education shall be guaranteed.
- (3) Admission to a course of study at a university shall open to every person in possession of a higher education entrance qualification. The acquisition of

the higher education entrance qualification by working persons and admission to a course of study at a university without a higher education entrance qualification shall be facilitated.

(4) The churches shall have the right to establish and maintain their own institutions of a similar nature to a university for the training of their clergy. This shall also apply to religious societies. The appointment of professors at state theological faculties shall be made in consultation with the churches.

(5) Details shall be regulated by a law.

Article 33 (Further education)

(1) The further education of adults shall be supported by the *Land*, the municipalities and associations of municipalities. The right to establish private further education institutions shall be guaranteed.

(2) Every person shall have the right to a leave of absence for vocational, cultural or political further education. Details shall be regulated by a law.

Article 34 (The arts and culture)

(1) The arts shall be free. They deserve public sponsorship, particularly in the form of support for artists.

(2) Cultural life in all its variety and the passing on of cultural heritage shall be publicly sponsored. Works of art and cultural monuments shall be under the protection of the *Land*, the municipalities and associations of municipalities.

(3) The *Land*, the municipalities and associations of municipalities shall support participation in cultural life and facilitate access to cultural assets

Article 35 (Sport)

Sport is a part of life worthy of promotion. The promotion of sport by the *Land*, the municipalities and associations of municipalities shall focus on a balanced, needs-driven relationship between popular sport and elite sport. It should take into account the special requirements of schoolchildren, students, senior citizens and persons with disabilities.

Section 7: Churches and religious societies

Article 36 (Legal status)

(1) There shall be no state church.

(2) Churches and religious societies shall regulate and administer their affairs independently within the limits of the law that applies to all. They shall confer their offices without the participation of the state or the civil community.

(3) The *Land* shall recognise the public mandate of the churches and religious societies. They shall remain corporations under public law, insofar as they have enjoyed that status in the past. Other religious societies shall be granted the same rights upon application, if their constitution and the number of their members give assurance of their permanency and they do not contradict the principles mentioned in paragraph 1 of Article 2 and the basic rights of this Constitution.

(4) Insofar as they are corporations under public law, churches and religious societies may levy taxes on their members on the basis of the state taxation lists.

(5) Associations whose purpose is to foster a philosophical creed shall have the same status as religious societies.

Article 37 (Property and state benefits)

(1) The ownership and other rights of churches, religious societies and their institutions in their property intended for religious, educational and charitable purposes shall be guaranteed.

(2) The benefits of the *Land* and the bodies responsible for municipal self-government to which the churches are entitled according to law, contract or other legal title may only be superseded by agreement. Insofar as such agreements concern the *Land*, they require confirmation by *Land* law.

Article 38 (Spiritual welfare)

Worship, spiritual guidance and other religious activities of the churches and religious societies shall be rendered possible in homes, hospitals, penal institutions and similar public institutions as well as in the police force, in accordance with prevailing requirements. Paragraph 3 of Article 13 shall apply.

Section 8: Nature and the environment

Article 39 (Protection of the natural foundations of life)

- (1) It is the duty of the *Land* and all persons to protect nature, the environment and the evolved man-made landscape as the basis for present and future life.
- (2) Every person shall have the right to the protection of his physical integrity from injury and unreasonable danger arising from changes in the natural foundations of life.
- (3) Animals and plants shall be respected as living beings. Species and species-appropriate habitats shall be preserved and protected.
- (4) State environmental policy shall work towards the economical use and reuse of raw materials as well as the economical use of energy.
- (5) *Land*, municipalities, associations of municipalities and other corporations under public law shall have a duty to protect the environment from damage or pollution and to ensure that environmental damage is eliminated or offset. Public and private projects shall require proof of their environmental compatibility. Property may be restricted if, contrary to law, the environment is seriously damaged or endangered by its use.
- (6) The disposal of waste that is not created within the territory of the *Land* shall only be permitted in exceptional cases in consideration of the peculiarities of Berlin, and shall be ruled out insofar as its composition poses a specific danger to health or the environment. Details shall be regulated by a law.
- (7) The *Land*, municipalities and associations of municipalities shall be obliged to collect and document information on current and expected pressures on the natural environment; owners and plant operators have a corresponding duty of disclosure. Every person shall have the right to this information, insofar as this does not conflict with overriding public or private interests. Details shall be regulated by a law.
- (8) Legal action instituted by an association in the interests of its members or the public good shall be permitted. Recognised environmental associations shall have the right to participate in administrative procedures that affect the natural foundations of life. Details shall be regulated by a law.
- (9) The *Land* shall work towards the aim that no atomic, biological or chemical weapons are developed, produced or stored on its territory.

Article 40 (Land)

(1) The use of land and waters shall be especially committed to the interests of the general public and future generations. Its negotiable character may be limited by law. Land that belongs to the Land may only be transferred in accordance with a law. Its use shall be regulated preferably by lease and building lease.

(2) The mining of mineral resources shall require state approval. Particular importance shall be attached to the public interest in the considerate use of land.

(3) *Land*, municipalities and associations of municipalities shall be obliged to keep open, and if necessary open up, access for the general public to nature, especially to mountains, forests, lakes and rivers, with due consideration for the principles of protecting the natural environment.

(4) The establishment and preservation of national parks, nature reserves and landscape conservation areas shall be promoted. Natural monuments shall be under public protection. Details shall be regulated by a law.

(5) The *Land* shall work towards the aim of converting land used by the military increasingly to civilian use.

Section 9: Property, the economy, work and social security

Article 41 (Property and right of inheritance)

(1) Property and the right of inheritance shall be guaranteed. Their content and limits shall be defined by laws.

(2) Property imposes obligations. Its use must also serve the public good.

(3) The *Land* shall support the broad diversification of property, in particular the formation of wealth by employees through participation in productive assets.

(4) Expropriation shall only be permissible for the public good. It may only be ordered by or pursuant to a law that determines the nature and extent of compensation. The compensation shall be determined by establishing an equitable balance between the public interest and the interests of those affected.

(5) Land, natural resources and means of production may be transferred to public ownership or other forms of ownership for the public good by a law that determines the nature and extent of compensation. The third sentence of paragraph 4 shall apply *mutatis mutandis* with respect to such compensation.

Article 42 (The economy)

(1) Every person shall have the right to the free development of his own economic initiative, insofar as he does not violate the rights of others and does not contravene the Constitution and the laws in accordance with it. The *Land* shall strive for competition and equality of opportunity.

(2) Economic life shall develop in accordance with the principles of a socially just market economy, committed to the protection of the natural environment. The misuse of economic power is not permissible and shall be prevented.

Article 43 (Agriculture and forestry)

(1) The use of land by agriculture and forestry shall be directed towards appropriateness of location, stability of productive capacity and ecological compatibility.

(2) The *Land* shall promote in particular the contribution of agriculture and forestry to the care of the man-made environment, the preservation of the countryside and the protection of the natural environment.

Article 44 (Structural aid)

The *Land* shall grant structural aid to the regions with the goal of creating and maintaining equivalent living and working conditions in all parts of the *Land*.

Article 45 (Social security)

(1) Within the framework of its powers, the *Land* shall be obliged to provide for the realisation of the right to social security in the event of illness, accident, inability to work, disability or a need for care, and in old age. The purpose of social security is to facilitate a dignified and autonomous way of life.

(2) There shall be an entitlement to social assistance in emergency situations that do not render possible a dignified life and that cannot be rectified through one's own power and means.

(3) The establishment and upkeep of establishments for advice, support and care in old age or in the event of illness, disability, inability to work and a need for care, as well as for other social and charitable purposes, shall be supported by the state, independent of their means of funding. The residents of homes shall be entitled to the right to participate in decision-making.

Article 46 (Emergency assistance)

Every person shall be obliged to provide emergency assistance according to law in the event of accidents, disasters and special states of emergency.

Article 47 (Housing)

(1) Within the framework of its powers, the *Land* shall be obliged to provide for the realisation of the right to adequate housing, in particular through the promotion of home ownership and through social house-building schemes, tenant protection and rent subsidies.

(2) Eviction from a place of abode may only be executed if alternative accommodation is available. In weighing up the interests, particular attention shall be paid to the importance of the accommodation being fit for human habitation.

Article 48 (Work)

(1) Within the framework of its powers, the *Land* shall be obliged to provide for the realisation of the right to work, which includes the right of every individual to earn his livelihood through freely chosen work, through a policy of full employment and employment promotion.

(2) A free vocational guidance and employment placement service shall be guaranteed. Insofar as no adequate job opportunity can be substantiated, there shall be an entitlement to retraining, further vocational training and subsistence.

(3) Employees shall have the right to safe, healthy and humane working conditions. Men and women shall be entitled to equal pay for equivalent work.

(4) Trainees, pregnant women, single parents, the sick, persons with disabilities and older employees shall be entitled to special protection against dismissal.

Article 49 (Occupational freedom)

(1) All persons shall have the right to choose and practise their occupation freely. This freedom shall only be interfered with by or pursuant to law.

(2) The generally and equally applicable obligation to work and compulsory service shall only be permissible for special purposes determined by law.

Article 50 (Right of co-determination)

Employees and their trade unions shall have the right to co-determination in matters pertaining to businesses, enterprises and offices according to law.

Article 51 (Freedom of association and the right to strike)

(1) The right to form associations (coalitions) for the safeguarding of working and economic conditions shall be guaranteed for every person and for all occupations. Informal agreements that attempt to restrict or obstruct this right shall be null and void and any measures taken to this end shall be unlawful.

(2) The right of coalition shall include in particular the conclusion of collective agreements that may be declared to be generally binding. According to law, trade unions shall have the right of admission to all businesses, enterprises and offices. The right to strike shall be guaranteed.

Section 10: Judicial proceedings and penal system

Article 52 (Basic rights in court)

(1) Extraordinary courts shall not be permissible. No one may be removed from the jurisdiction of his lawful judge.

(2) Courts for particular fields of law may be established only by law.

(3) All persons shall be equal before the court and shall be entitled to a fair hearing.

(4) Every person shall be entitled to fair and expeditious proceedings before an independent and impartial court. The public may only be excluded according to law.

(5) No one may be forced to testify against himself or legally defined closely related persons.

Article 53 (Basic rights in criminal proceedings)

(1) An act may be punished only if it had been defined by law as a criminal offence before the act was committed.

(2) Every person charged with or accused of an offence shall be considered innocent until legally convicted.

(3) No person may be punished for the same act more than once under general criminal law.

(4) An accused person may use the assistance of a defence counsel in any legal proceeding.

Article 54 (Penal system)

(1) Human dignity is to be respected in the execution of a custodial sentence; it must seek to equip the prisoner to lead a socially responsible life in the future, free of criminality.

(2) The released prisoner shall be entitled to assistance for his rehabilitation in accordance with the law.

Part 3: The structure of the state

Section 1: The *Landtag*

Article 55 (The *Landtag*)

- (1) The *Landtag* shall be the elected representation of the people.
- (2) The opposition shall be an important part of parliamentary democracy. It shall have the right to equality of opportunity.

Article 56 (Free mandate of members)

- (1) Members of the *Landtag* shall be representatives of the whole people, not bound by any mandate or instruction. No one may force a member to act contrary to his conscience or convictions.
- (2) Members shall have the particular right to take the floor in the *Landtag* and its committees, to put questions and table motions, and to cast their votes in elections and for or against resolutions. Questions to the government shall be answered without delay and completely to the best of one's knowledge. Details shall be regulated by the rules of procedure.
- (3) Members shall be afforded access to government bodies and agencies of the *Land*. The latter shall provide them on request with information from data files and produce files and other official records. The request shall be addressed to the *Land* government or, insofar as it concerns it, the *Land* Court of Audit. All information, files and other official records shall be made available without delay.
- (4) The provision of information or the submission of files and other official records may only be refused if rendered essential by overriding public or private interests in the maintenance of secrecy. The member shall be informed of the decision and the grounds for that decision.

Article 57 (Indemnity)

At no time may a member be subjected to court proceedings or disciplinary action or otherwise called to account outside the *Landtag* for a vote cast or for any speech or debate in the *Landtag*, in any of its committees or in a parliamentary group. This shall not apply to defamatory insults.

Article 58 (Immunity)

Any criminal proceedings against a member, any detention and any other restriction on his personal freedom shall be suspended at the demand of the *Landtag* if the parliamentary work of the *Landtag* is adversely affected by such measures.

Article 59 (Privilege)

Members shall be entitled to refuse to give evidence concerning persons who have confided information to them in their capacity as members and concerning facts that they have learned in confidence in this capacity. To the extent that this right of refusal to give evidence applies, search and seizure shall not be permissible. The right of refusal to give evidence shall not expire with the vacating of the seat.

Article 60 (Compensation)

Members of the *Landtag* shall receive compensation that is commensurate with their responsibility and safeguards their independence. Details shall be regulated in a law.

Article 61 (Indictment of a member)

(1) A member who, for motives of profit, misuses his influence or his knowledge as a member in a way that grossly compromises the reputation of the *Landtag* may be indicted before the Constitutional Court.

(2) The motion to raise the indictment must be signed by at least one third of the members of the *Landtag* and shall require the affirmative votes of a majority of two thirds of the members of the *Landtag*.

(3) The Constitutional Court may impose forfeiture of the seat.

Article 62 (Legislative term, new elections)

(1) Subject to the following provisions, the *Landtag* shall be elected for five years. New elections shall be held no sooner than fifty-seven months and no later than sixty months after the start of the legislative period. The President of the *Landtag* shall determine the election date in agreement with the presiding committee of the *Landtag*.

(2) The *Landtag* may dissolve itself by a resolution of a majority of two thirds of its members.

(3) If the *Landtag* is dissolved, new elections shall be held within seventy days.

(4) The *Landtag* shall convene no later than the thirtieth day after the elections are held. This shall end the legislative term of the previous *Landtag*.

Article 63 (Scrutiny of elections)

(1) Scrutiny of elections is the responsibility of the *Landtag*. It shall also decide whether a member has lost his seat in the *Landtag*.

(2) Complaints against decisions of the *Landtag* may be lodged with the Constitutional Court.

(3) Details shall be regulated by a law.

Article 64 (Sessions)

(1) The President of the *Landtag* may convene the *Landtag* at any time. He shall be obliged to convene it without delay if at least one fifth of the members of the *Landtag* or the *Land* government so demand.

(2) Sessions of the *Landtag* shall be public. The public may be excluded by the votes of two thirds of the members present. The motion shall be voted upon in a session not open to the public. A public explanatory statement shall be given if the public is excluded.

(3) Truthful reports on public sessions of the *Landtag* and its committees shall not give rise to any liability.

Article 65 (Decision-making)

Decisions of the *Landtag* shall require a majority of the votes cast unless this Constitution provides otherwise. Exceptions may be permitted with respect to elections to be conducted by the *Landtag* by a law or the rules of procedure of the *Landtag*.

Article 66 (Obligation of attendance and right of access)

- (1) One fifth of the members of the *Landtag* present or one third of the members of a committee may require the presence of any member of the *Land* government.
- (2) The members of the *Land* government and their representatives shall have access to the sessions of the *Landtag* and its committees. Members of the government shall have the right to be heard. Details shall be regulated in the rules of procedure.
- (3) Paragraph 2 shall not apply to committees of inquiry.

Article 67 (Parliamentary groups)

- (1) Parliamentary groups shall consist of members of the *Landtag*. As autonomous and independent structures with their own rights and duties, they shall participate in the work of the *Landtag* and support the development of informed parliamentary opinion. In this respect they shall be entitled to adequate resources. The formation of a parliamentary group after the convening of the *Landtag* shall require the latter's consent. Details shall be regulated by a law.
- (2) There shall be no obligation to follow the party line.

Article 68 (Rules of procedure)

The *Landtag* shall establish its own rules of procedure.

Article 69 (Presiding committee)

- (1) In its first session the *Landtag* shall elect from its members a presiding committee, consisting of the President, the vice-president and other members. Every parliamentary group shall be entitled to be represented on the presiding committee.
- (2) The President, the vice-president and other members of the presiding committee may be voted out of office by a resolution of the *Landtag*. The vote for removal from office shall be valid if two thirds of the members of the *Landtag* assent.
- (3) The rights and duties of the presiding committee and of its members shall be regulated by the rules of procedure of the *Landtag*.

(4) The President shall represent the *Landtag* externally. He shall appoint and dismiss the employees of the *Landtag*. He shall exercise proprietary and police powers in the *Landtag* building. A search or seizure on the premises of the *Landtag* may take place only with the permission of the *Landtag* President. He shall regulate the income and expenditure of the *Landtag* in accordance with the budget.

Article 70 (Committees)

(1) The *Landtag* shall form committees from among its members.

(2) The composition of the committees and the regulation of committee chairmanships shall be governed by the principles of proportional representation. Every parliamentary group shall have the right to be represented on every committee by at least one member. Independent members shall have the right to work on a committee with a right to vote.

(3) The committees shall operate within the framework of the mandates conferred upon them by the *Landtag*. They may deal with a matter within their area of responsibility on their own initiative and make recommendations to the *Landtag*.

Article 71 (Petitions committee)

(1) The petitions committee shall decide on the petitions addressed to the *Landtag*, insofar as the *Landtag* itself does not take such a decision.

(2) All government bodies and administrative institutions of the *Land* and the municipalities shall at any time and on request provide access for a committee to information from data files or produce files and other official records. The courts shall only provide information in matters of adjudication.

(3) Details shall be regulated by a law.

Article 72 (Committees of inquiry)

(1) The *Landtag* shall have the right and, on the motion of one fifth of its members the duty, to establish a committee of inquiry. The object of the inquiries shall be stipulated in a motion. The inquiry's mandate may not be changed contrary to the wishes of the proposer.

(2) The chairmanship of every new committee of inquiry shall be rotated among the parliamentary groups in order according to their numbers. The chair shall not have a right to vote on the committee.

(3) The committees of inquiry shall have the right to take evidence. They shall be obliged to do so if this is moved by the proposer or one fifth of the committee members. The taking of evidence shall not be permitted if it clearly does not lie within the scope of the inquiry mandate. The privacy of correspondence, post and telecommunications shall not be affected. Courts, government bodies and administrative institutions of the *Land* and the municipalities shall be obliged to provide legal and administrative assistance, including the taking of evidence and submission of files.

(4) Reports by committees of inquiry shall not be subject to judicial review. The courts shall be free to evaluate the established facts of a case.

(5) Details shall be regulated by a law.

Article 73 (Study commissions)

The *Landtag* shall have the right to establish study commissions. Every parliamentary group shall be entitled to be represented on every study commission by at least one member. Details shall be regulated by a law.

Article 74 (Land commissioners)

(1) In order to safeguard the basic right to data protection in accordance with Article 11, the *Landtag* shall elect a Commissioner for Data Protection without debate. A committee specified by the *Landtag* shall hold a formal consultation prior to his election. He shall be appointed by the President of the *Landtag* and shall be subject to his supervision. He shall be independent in the execution of his office and subject only to the law. He may consult the *Landtag* at any time. All government bodies and administrative institutions of the *Land* and the municipalities shall be obliged on request to submit and release to him files and other official records, provide information from data files and allow access to all official premises.

(2) The *Landtag* may elect additional commissioners. The third sentence of paragraph 1 shall apply *mutatis mutandis*, insofar as nothing else is stipulated by law.

(3) Details shall be regulated by a law.

Section 2: The legislature

Article 75 (Legislative initiative)

Bills may be introduced from the floor of the *Landtag*, by the *Land* government or by a popular petition to initiate legislation.

Article 76 (Popular initiative)

(1) All residents shall have the right to submit certain items of political decision-making to the *Landtag* within the framework of its competence. This popular initiative may also table bills and motions to dissolve the *Landtag*. The initiative must be signed by at least twenty thousand residents and motions to dissolve the *Landtag* by at least one hundred and fifty thousand persons entitled to vote. Their representatives shall have the right to be heard.

(2) Initiatives on the *Land* budget, official emoluments and pensions, taxes and personnel decisions shall not be permitted.

Article 77 (Popular petition)

(1) Should the *Landtag* not assent to a draft bill, a motion to dissolve the *Landtag* or any other bill in accordance with Article 76 within four months, a popular petition shall take place on the demand of the representatives of the initiative.

(2) Should the *Land* government or one third of the members of the *Landtag* consider the popular petition to be impermissible, they shall have the right to appeal to the Constitutional Court.

(3) A popular petition shall be adopted if at least eighty thousand persons entitled to vote agree with it within four months. A motion to dissolve the *Landtag* shall require the agreement of at least two hundred thousand persons entitled to vote.

Article 78 (Referendum)

(1) Should the *Landtag* not comply with the popular petition within two months, a referendum shall take place within a further three months. The *Landtag* may put a competing draft bill or any other submission in accordance with Article 76 to a vote as well. The President of the *Landtag* shall publish the draft bills, complete with reasons, or the other submissions to be voted upon, in an adequate format.

(2) A draft bill or any other submission in accordance with Article 76 shall be adopted by referendum if the majority of those persons who have voted, but at least one fourth of those entitled to vote, have given their assent.

(3) For constitutional changes as well as for motions to dissolve the *Landtag*, two thirds of those who have voted, but at least one half of those entitled to vote, must have voted for the constitutional change or the dissolution of the *Landtag*. Only the valid yes and no votes shall count.

Article 79 (Amendments to the Constitution)

The Constitution may only be amended by a law that expressly changes or supplements the wording of the Constitution. The assent of a majority of two thirds of the members of the *Landtag* or a referendum in accordance with paragraph 3 of Article 78 shall be required for this.

Article 80 (Statutory instruments)

The power to issue a statutory instrument may only be conferred by law. The law must specify the content, purpose and scope of the authority conferred. The legal basis shall be stated in the statutory instrument. If the law provides that such authority may be further delegated, such delegation shall require a statutory instrument.

Article 81 (Promulgation, entry into force)

(1) The President of the *Landtag* shall sign and promulgate without delay laws passed by the *Landtag* or adopted by referendum in the Official Gazette for the *Land* of Brandenburg.

(2) Statutory instruments shall be signed by the agency that issues them and, unless a law provides otherwise, shall be promulgated in the Official Gazette for the *Land* of Brandenburg.

(3) Every law and every statutory instrument shall specify the date on which it takes effect. In the absence of such a provision, it shall take effect on the fourteenth day following the day on which the Official Gazette is published.

(4) Laws and statutory instruments may be signed and promulgated in electronic form according to a law.

Section 3: The *Land* government

Article 82 (Composition)

The government of the *Land* of Brandenburg shall consist of the Minister-President and the *Land* ministers.

Article 83 (Election of the Minister-President)

(1) The *Landtag* shall elect the Minister-President by a majority of its members without debate by secret ballot. Any member shall be entitled to propose a nominee.

(2) If none of the nominees receives a majority in the first ballot, a second ballot shall take place. If the election is not settled by this ballot, the person who has the most votes in an additional ballot shall be elected.

(3) If the election of the Minister-President does not take place within three months of the *Landtag* being constituted, then the *Landtag* shall be regarded as dissolved.

Article 84 (Appointment and dismissal of ministers)

The Minister-President shall appoint and dismiss the ministers.

Article 85 (Termination of the term of office)

(1) The term of office of the Minister-President shall end when a new *Landtag* convenes; the terms of office of the ministers shall also end on any other occasion on which the Minister-President ceases to hold office. The Minister-President and the ministers may declare their resignation at any time.

(2) The Minister-President and, at his request, the ministers shall be obliged to manage the affairs of office until their successors take office.

Article 86 (Constructive vote of no confidence)

(1) The *Landtag* may express its lack of confidence in the Minister-President only by electing a successor by the vote of a majority of its members.

(2) At least forty-eight hours and no more than seven days shall elapse between the debate on the motion in the *Landtag* and the vote.

Article 87 (Vote of confidence)

Should a motion by the Minister-President for a vote of confidence from the *Landtag* not be supported by the majority of members of the *Landtag*, the latter may dissolve itself within twenty days if it has not elected another Minister-President by the votes of the majority of its members within this period. If the *Landtag* does not make use of this power, the Minister-President shall have the right to dissolve the *Landtag* within an additional twenty days.

Article 88 (Oath of office)

The Minister-President and the ministers of the *Land* government shall take the following oath before the *Landtag* prior to assuming their duties:

“I swear that I will dedicate all my efforts to the well-being of the people of the *Land* of Brandenburg, promote their welfare, protect them from harm, administer impartially the office conferred upon me to the best of my knowledge and ability, uphold and defend the Constitution and law, fulfil my duties conscientiously and do justice to all.”

The oath may also be taken with a religious affirmation.

Article 89 (Formation of policies)

The Minister-President shall determine the guidelines for government policy and is responsible for this to the *Landtag*. Within these guidelines every minister shall head the portfolio entrusted to him independently and under his own responsibility in relation to the *Landtag*.

Article 90 (Chairmanship, voting, conducting business)

(1) The Minister-President shall act as chairman in the *Land* government. The government shall pass its resolutions by majority vote. In the case of a tie, the Minister-President shall have the deciding vote.

(2) The Minister-President shall conduct business in accordance with the rules of procedure adopted by the *Land* government.

Article 91 (Power of representation, treaties)

(1) The Minister-President shall represent the *Land* externally. He may delegate this power to another member of the *Land* government or to subordinate agencies.

(2) State treaties, especially agreements that refer to objects of legislation or that require expenditure for which public funds have not been provided, shall require the consent of the *Landtag*.

Article 92 (Right of pardon)

The Minister-President shall exercise the power to pardon individual offenders on behalf of the *Land*. He may delegate this power.

Article 93 (Civil servants)

The *Land* government shall appoint and dismiss the civil servants of the *Land*. It may delegate this power.

Article 94 (Duty to inform of the government)

The *Land* government shall be obliged to duly and fully inform the *Landtag* and its committees on the preparation of laws and statutory instruments, and on fundamental issues of regional planning, site planning and the implementation of large-scale projects. The same shall apply to participation in the Bundesrat and to cooperation with the Bund, the Länder, other states and the European Union, insofar as this regards matters of fundamental importance. Paragraph 4 of Article 56 shall apply *mutatis mutandis*.

Article 95 (Incompatibility)

The Minister-President and the ministers may not hold any other salaried public office or engage in any trade or profession. No member of the government may belong to any enterprise conducted for profit or to one of its bodies. The *Landtag* shall decide on exceptions.

Section 4: The administration

Article 96 (Administrative organisation)

(1) The organisation of the state *Land* administration and the regulation of authority shall be determined by law or pursuant to a law. Subordinate administrative bodies shall be assigned duties that they are able to discharge reliably and properly.

(2) The establishment of governmental agencies shall be incumbent upon the *Land* government. It may delegate this power.

(3) The duties of the administration shall be assumed by officials and public servants who work impartially and are subject to the Constitution and the law. Civil servants shall take an oath of office. Employees shall make a pledge.

Article 97 (Local self-government)

(1) Municipalities and associations of municipalities shall have the right to self-government. The *Land* shall only be entitled to supervisory control with regard to municipalities and associations of municipalities.

(2) Within their respective territory, municipalities and associations of municipalities shall discharge all the duties of the local community that are not incumbent upon other agencies according to this Constitution or by operation of law.

(3) The *Land* may oblige the municipalities and associations of municipalities by law or pursuant to a law to assume the duties of the *Land* and at the same time to reserve authority as the law directs. Should the municipalities and associations of municipalities be obliged by law or pursuant to a law to discharge new public duties, then provisions shall be made at the same time to cover costs. Should these duties lead to an extra burden on the municipalities or associations of municipalities, then they are to be offset appropriately.

(4) The municipalities and associations of municipalities in the form of their local authority associations shall be heard in good time before general matters that affect them directly are regulated by law or statutory instrument.

(5) Details shall be regulated by a law.

Article 98 (Territorial revisions)

(1) The territory of municipalities and associations of municipalities may be revised for reasons of public welfare.

(2) The territory of municipalities may be revised by agreement of the municipalities with the approval of the supervisory authority, by law or pursuant to a law. The dissolution of municipalities against their will shall require a law. Before the division of the territory is revised, the population of the areas directly affected must be heard.

(3) The territory of associations of municipalities may be revised by law or pursuant to a law. The dissolution of administrative districts shall require a law. Before the decision, the elected representatives of the association of municipalities must be heard.

(4) Details shall be regulated by a law.

Article 99 (Local taxes)

In order to discharge their duties, the municipalities shall have the right, in accordance with the law, to develop their own sources of taxation. By means of financial equalisation, the *Land* shall ensure that the municipalities and associations of municipalities are able to discharge their duties. Within the framework of financial equalisation, the municipalities and associations of municipalities shall be given an adequate share of the tax receipts of the *Land*.

Article 100 (Local constitutional complaints)

Municipalities and associations of municipalities may file constitutional complaints on the ground that a law of the *Land* violates their right to self-government according to this Constitution.

Section 5: Finance

Article 101 (Budget)

(1) Within the framework of the requirements of general economic equilibrium, the *Land* shall take into account the protection of the natural foundations of existence for the present and future generations in its management of the budget.

(2) All revenues and expenditures of the *Land* shall be included in the budget. Only payments into or remittances from *Land* enterprises and special trusts need to be included. A supplementary budget may be limited to individual revenues and expenditures. The budget and the supplementary budget must be balanced with respect to revenues and expenditures.

(3) The budget for one or more fiscal years, divided by year, shall be determined by the Budget Law before the start of the first fiscal year. The law may provide for parts of the budget to apply to different periods, divided by fiscal year.

Article 102 (Transitional power)

If by the end of a fiscal year the budget for the following year has not been adopted, the *Land* government shall be empowered until such budget comes into force:

1. to make all expenditures that are necessary,
 - a) to maintain legally established institutions and to carry out legally authorised measures,
 - b) to meet the legal obligations of the *Land*,
 - c) to continue building projects, procurements and the provision of other benefits or services to the extent that amounts have already been appropriated in the budget of the previous year;
2. to borrow funds up to a maximum of one quarter of the total amount of the previous budget for terms of three months each, insofar as revenues from taxes and duties and revenues from other sources do not cover the expenditures referred to in point 1.

Article 103 (Borrowing)

(1) The borrowing of funds and the assumption of surety obligations, guarantees or other commitments that may lead to expenditures in future fiscal years shall require authorisation by law specifying the amounts involved. Revenue obtained by borrowing must not exceed the total of investment expenditures provided for in the budget. Exceptions shall be permissible only to avert a disturbance to the overall economic equilibrium in accordance with paragraph 1 of Article 101.

(2) Details shall be regulated by a law.

Article 104 (Cover of expenditure)

Resolutions of the *Landtag* that involve expenditure must stipulate how such expenditure is to be covered.

Article 105 (Extra-budgetary expenditure)

Expenditure in excess of budgetary appropriations or for purposes not provided for in the budget shall require the consent of the Minister of Finance. Such consent may be given only in the event of an unforeseen and unavoidable necessity. Details shall be regulated by a law.

Article 106 (Submission and auditing of accounts)

(1) For the purpose of discharging the *Land* government, the Minister of Finance shall submit to the *Landtag* an account of all revenue and expenditure, assets and debts of the *Land* in the following fiscal year.

(2) The *Land* Court of Audit shall review the budget account as well as the regularity and financial management of the budget and the economy. The results of the audit shall be submitted to the *Landtag* and the *Land* government in an annual report. The government shall make a statement on its position on the report before the *Landtag*. Details shall be regulated by a law.

Article 107 (Land Court of Audit)

(1) The *Land* Court of Audit is an independent, supreme *Land* body, subject only to the law. Its members shall enjoy judicial independence.

(2) The members of the *Land* Court of Audit shall be elected by the *Landtag*, without debate, by the majority of its members. A committee specified by the *Landtag* shall hold a consultation prior to their election. Details shall be regulated by a law.

Section 6: Administration of justice

Article 108 (The judiciary)

- (1) The judges shall be independent and subject only to the law.
- (2) Women and men from among the people shall participate in the administration of justice as honorary judges in accordance with the law.

Article 109 (Appointment of judges)

- (1) Together with the committee for the selection of judges, the responsible minister shall decide on the appointment of judges. At least two thirds of the committee for the selection of judges shall consist of *Landtag* members. All parliamentary groups shall be represented on the committee. The chair shall be held by the responsible minister without the right to vote. Details shall be regulated by a law.
- (2) The presidents of the higher *Land* courts shall be chosen by the committee for the selection of judges on the proposal of the *Land* government.
- (3) The judges designated or elected in accordance with paragraphs 1 and 2 shall be appointed by the *Land* government. It may delegate this power to the responsible member of the *Land* government.
- (4) Should the *Land* establish common courts together with other Länder, a state treaty may lay down stipulations deviating from the above.

Article 110 (Honorary judges)

- (1) Honorary judges may suffer no detrimental effects due to their activity. During their term of office, a termination or dismissal shall be permitted only if there are circumstances that entitle the employer to termination without notice.

(2) Honorary judges may choose a representative to the courts to look after their interests. Honorary judges are entitled to further training in their role.

Article 111 (Judicial impeachment)

Should a judge infringe the principles of the Basic Law or the constitutional order of the *Land* within or outside his official capacity, the Federal Constitutional Court may by a two-thirds majority order that the judge be transferred to another office or retired upon a motion of the majority of the members of the *Landtag*. In the event of a deliberate infringement, dismissal may be ordered.

Article 112 (Constitutional Court)

(1) The Constitutional Court of the *Land* is an autonomous and independent court of justice of the *Land* in relation to all other constitutional bodies.

(2) The Constitutional Court shall consist of the President, the vice-president and seven additional constitutional judges. The Constitutional Court shall be composed in three equal parts of professional judges, members qualified to hold judicial office or graduate lawyers, and members who are not required to fulfil these prerequisites.

(3) By law the number of judges may be increased to twelve and the court may be divided into two panels of judges.

(4) The constitutional judges shall be elected for a period of ten years by the *Landtag* without debate. An adequate representation of proposals from the political forces of the *Land* shall be striven for in the election. The re-election of a constitutional judge shall not be permitted. A committee specified by the *Landtag* shall hold a consultation prior to their election. Those candidates who have received the votes of a majority of two thirds of the members of the *Landtag* in a secret ballot shall be elected.

(5) Any person who is at least thirty-five years of age and eligible for election to the German Bundestag may be elected a constitutional judge. The members of the Constitutional Court may not be members of any other constitutional body of the Bund or a *Land*.

(6) Details shall be regulated by a law that may also provide for a maximum age limit for constitutional judges.

Article 113 (Jurisdiction of the Constitutional Court)

The Constitutional Court shall decide:

1. on the interpretation of this Constitution in the event of disputes concerning the extent of the rights and duties of a supreme *Land* body or of other parties vested with rights of their own by this Constitution or by the rules of procedure of the *Landtag* or the government;
2. on the formal or substantive compatibility of *Land* law with this Constitution, in the event of disagreements or doubts and at the request of the *Land* government or one fifth of the members of the *Landtag*;
3. on the compatibility of a *Land* law with this Constitution if a court has stayed proceedings in accordance with paragraph 1 of Article 100 of the Basic Law;
4. on constitutional complaints (Article 6, paragraph 2);
5. on all other matters assigned to it by the Constitution or by law.

Section 7: Transitional and concluding provisions

Article 114 (Formation of the Constitutional Court)

The judges to be elected in the establishment of the Constitutional Court shall be elected for a five-year period of office. They may be re-elected only once for ten years.

Article 115 (Constituent assembly)

(1) This Constitution shall cease to apply if a constituent assembly has adopted a new constitution by a majority of two thirds of its members and a majority of the voters has assented to the new constitution in a referendum.

(2) Citizens shall have the right to demand the election of a constituent assembly to draw up a new *Land* constitution. Ten per cent of those entitled to vote must have signed an appropriate initiative for this purpose.

(3) A referendum shall take place on the implementation of the election to a constituent assembly. The election shall be implemented if two thirds of those who have voted, but at least half of those entitled to vote, have agreed.

(4) The *Landtag* may decide by law by a majority of two thirds of its members on the election of a constituent assembly.

(5) Details shall be regulated by a law.

Article 116 (Reorganisation of the Berlin-Brandenburg region)

(1) The *Landtag* shall duly and fully participate in the structuring of an agreement on the unification of the Länder of Brandenburg and Berlin. The agreement shall require the approval of two thirds of the members of the *Landtag* for its ratification, as well as approval in a referendum in accordance with the agreement.

(2) From its entry into force until the formation of the united *Land*, the agreement in accordance with paragraph 1 may stipulate that powers of the *Landtag* and the *Land* government be delegated to joint bodies and committees of the Länder of Brandenburg and Berlin.

Article 117 (Entry into force of the Constitution)

This Constitution shall enter into force on the day of its promulgation.

Amendments to the Constitution

No.	Amending law	Amended Article	Type of amendment
1.	Delimitation Treaty, Article 2 Date: 27.06.1995 Reference: Official Gazette I p. 150	Art. 22 para 3 Art. 62 Art. 116	amended amended revised
2.	Law amending the Constitution of the Land of Brandenburg Date: 10.03.1997 Reference: Official Gazette I p. 4	Art. 22 para 5	added
3.	Law amending Article 112 para. 4 of the Constitution as well as the Constitutional Court Law, Article 1 Date: 24.06.1997 Reference: Official Gazette I p. 68	Art. 112 para 4 sentence 5	revised
4.	Law amending the Constitution of the Land of Brandenburg and the Constitutional Court Law, Article 1 Date: 07.04.1999 Reference: Official Gazette I p. 98	Preamble Art. 22 para 2 Art. 62 para 1 Art. 65 Art. 74 para 1 Art. 77 para 4 Art. 78 para 1 Art. 81 para 1 Art. 87 sentence 1 Art. 94 sentence 2 Art. 96 para 1 Art. 97 para 3 Art. 109 para 3 Art. 112 para 6 Art. 114 sentence 2	amended amended amended amended repealed amended amended amended revised amended amended amended amended
5.	Law amending the Constitution of the Land of Brandenburg Date: 16.06.2004 Reference: Official Gazette I p. 254	Art. 109 para 4	added
6.	Law amending the Constitution of the Land of Brandenburg Date: 07.07.2009 Reference: Official Gazette I p. 191	Art. 81 para 4	added

Published by: Landtag Brandenburg, Public Relations Division

Translated by: ACTA Dolmetscherdienste, Éva Weging

Printed by: Druckerei Arnold, Großbeeren

Last revised: October 2011

The English translation of the Constitution of the *Land* of Brandenburg is not the official version. The German version alone, as published in the relevant Official Gazette of the *Land* of Brandenburg, shall be legally binding.

Established terms that denote specific institutions in the political system of the Federal Republic of Germany are used in this English version of the Constitution of the *Land* of Brandenburg in *italic* script in the German original.

This publication is produced by the *Landtag* Brandenburg in the framework of parliamentary public relations work. It is issued free of charge. It may not be sold on. It may not be used in an election campaign.



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