

The Budweis/Budějovice Compromise

introduced and
translated by
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Between 1906 and 1914, in a town of the Habsburg Monarchy whose public life had come to be dominated by German-Czech tensions, party leaders and Habsburg officials attempted an unusual and indeed remarkable solution: drafting legislation that would segregate Czech politics from German politics by dividing voters, taxpayers, schoolchildren, and everyone else into two "cadastres," or autonomous but geographically interspersed national groups which were legally equal. Czechs and Germans were to continue sharing the territory of the town, yet become separate political communities, each with extensive rights of self-rule. The drafts never became law, in large part because of the First World War; its outbreak forced enactment to be postponed, and its conclusion led to the destruction of the Habsburg Monarchy on whose constitutional structure the proposed legislation rested. Today, even in the town itself—which lies 100 miles south of Prague, and is called (České) Budějovice in Czech and Budweis in German—few people know about the Budweis/Budějovice Compromise. And yet, it deserves our attention, for at least three reasons.

First, the Budweis/Budějovice Compromise was no isolated undertaking. In 1905, a Czech-Habsburg-German compromise similar in many ways to the Budweis/Budějovice one came into effect in Moravia, a crownland of the Habsburg Monarchy inhabited by about 2.5 million people. In 1910, the legislature of a second crownland, the Bukovina, adopted a compromise centered on Polish, German, Romanian, and Ruthenian cadastres. Bosnia-Herzegovina, meanwhile, recently annexed from the Ottoman Empire, was dictated a consti-

tution centered on Catholic (Croat), Serb-Orthodox, and Muslim ones. In 1914, a compromise centered on dual, Polish and Ruthenian electoral districts was on the verge of being implemented in Galicia. And negotiations were quite advanced, but also deadlocked, over how to bring about a Czech-German partition of Bohemia, the rich and populous crownland to which Budweis/Budějovice belonged. When the experiment with territorial and "personal" forms of national autonomy was cut short, it was well on its way to embracing twenty million citizens of one of Europe's Great Powers.

Second, that experiment had radical implications. And the Budweis/Budějovice Compromise, which drew on earlier compromises but faced fewer constraints because it concerned a much smaller population, promised to be the most radical of all; it marked the summation of a trend, as well as a logical extreme. Yet in 1914, political leaders, officials, judges, and scholars were only beginning to understand that trend—nothing less than the transformation of a dynastic state into a multinational federation. Then that state disintegrated, and interest in its political dynamics plummeted. For decades now, only scholars in a few fields have even heard about the experiment of 1905 to 1914. And they have tended not to appreciate its importance. Both symptom and cause of that underestimation is that the actual compromises, with dramatic content bulging under dry legal prose, remain unknown. Only the Bukovinan and Moravian Compromises has been reprinted since 1918,* and none has ever been translated into English. To start filling the gap is to open up new possibilities for understanding

* Rudolf Wagner, Der Parlamentarismus und nationale Ausgleich in der ehemals österreichischen Bukowina (Munich: Der Südostdeutsche, 1984), 195-247; and Horst Glassl, Nationale Autonomie im Vielvölkerstaat. Der Mährische Ausgleich (Munich: Sudetendeutsche Stiftung, 1977), 31-90.

the Central European past.

Third, the Budweis/Budějovice Compromise, like several of its cousins, offers insight into problems of our times. Its mixed, territorial and "personal" approach, for all its faults, places in perspective more unilaterally territorial approaches to national autonomy, including those pursued in communist Yugoslavia and two of its successors: Macedonia and "ethnically cleansed" Bosnia-Herzegovina. Its attempts at reconciling mandatory national/racial classification with formal equality of individuals, voluntary association, and additional tenets of classic liberalism resonate instructively with different attempts toward the same end within American policies of Affirmative Action. Its attention to the sticky details of establishing group rights contrasts productively with recent, much-discussed theoretical works by political scientists and philosophers such as Charles Taylor, Will Kymlicka, Amy Gutmann, and Seyla Benhabib about "democracy and difference," "multicultural citizenship," "equality and diversity," and "identity in democracy." The difficulty and complexity to the attempt in the Budweis/Budějovice Compromise at achieving a precise definition of "nations" also denaturalize and—to coin a term—degroupize that foundational concept of modern politics, in ways that complement some of the best new scholarship (by Rogers Brubaker, for example, and Benedict Anderson) concerning nationalism, "ethnic groups," and citizenship.

Although dense and opaque, like much legislation, the text of the Budweis/Budejovice Compromise requires little explanation in order to be understood by the careful reader. I have added few footnotes, and preface the document only with the following information.

The population of Budweis/Budejovice on the eve of the First World War was approximately 45,000. Language data

from the census indicate that Czech-speakers had come to outnumber German-speakers by a ratio of 2 to 1. (The census did not allow respondents to claim more than one language.) But since the 1860s, when Czech and German political parties had first taken root, Germans had dominated Town Hall. That was because they tended to be wealthier, and the electoral system discounted heavily the voices of the poor. An important dimension to the Budweis/Budejovice Compromise was that it modified that electoral system such as to allow a Czech victory, but also a dignified German retreat. Readers interested in learning more should consult an interview with August Zátka, the principal architect of the Budweis/Budejovice Compromise, that was made by an Austrian journalist in 1918 and translated by me in 2001. They should also consult my book, *Budweisers into Czechs and Germans: A Local History of Bohemian Politics, 1848-1948* (Princeton: Princeton University Press, 2002), particularly Chapter 4.

My translation rests on two copies of the Budějovice/Budweis Compromise, both printed in town—one in Czech and the other in German. They are undated, but the evidence points to late drafts, probably from 1913. (Zátka's first draft from 1906 is preserved in the Austrian State Archive in Vienna, Allgemeines Verwaltungsarchiv, Nachlass Beck, carton 13.) The Czech-language copy was supplied to me by Jan Mareš, Director of the Regional Division of the State Academic Library in České Budějovice, Czech Republic. I found the other, slightly later copy in the Austrian State Archive, Allgemeines Verwaltungsarchiv, Ministerium des Innern, Präsidiale, carton 1561: 11/Böhm. 1900-1918. Where differences between the two versions occur, they are noted. The handwritten changes to the German-language one, also noted, are most likely the work of a legal counselor in the imperial Austrian Ministry of the Interior.

Law of this day _____, by which are issued special provisions for the protection of both nationalities in the town of České Budějovice/Budweis, through amendment and amplification of the municipal and electoral codes for the Kingdom of Bohemia.

With the assent of the assembly of my Kingdom of Bohemia, I [Emperor-King Francis Joseph] do hereby order as follows:

Part the first.

National cadastres shall be introduced in the town of České Budějovice /Budweis.

§ 1.

National cadastres.

In the town of České Budějovice /Budweis, national cadastres shall be created, for the purposes of compiling lists of voters for elections to public representative bodies, carrying out annual registration for the German and Czech school systems, and assessing taxpayers cadastral tax surcharges. There shall be a Czech cadastre and a German cadastre, and an official record shall be kept thereof.

Registered in the cadastres shall be:

1. persons having their residence in the town; and if not already registered in accord with No. 1;
2. all persons or legal entities (commercial enterprises, cooperative societies, and the like) assessed a direct state tax within the town; and
3. honorary burghers and burghers appointed to those statuses before enactment of this law.

Persons registered in the Czech cadastre constitute the Czech cadastral

community, and persons registered in the German cadastre constitute the German one. The cadastral communities are bodies with legal status.

§ 2.

Enrollment of cadastre members.

The head of the political District Authority shall order enrollment by those persons and legal entities (§ 1, No. 2) that are to be registered in the cadastres.

The purpose, time, and further details of the enrollment process shall be announced in newspapers of the Kingdom in which official announcements are regularly published, as well as by means of placards placed on public display in České Budějovice/Budweis.

As a rule, enrollment shall proceed for persons on the basis of a profession of nationality, and for legal entities (§ 1, No. 2) on the basis of a declaration. Forms for professing or declaring nationality shall be issued by the political District Authority, and shall contain the following:

- a] a column for profession or declaration in favor of one of the cadastres,
- b] columns in which are to be recorded name, address, and other matters important for the cadastre.

Required to fill out the form and to submit it to the mayor within the prescribed period are:

1. persons of legal majority, for themselves,
2. for all others whose registration is required, those persons authorized to represent them by current legislation, corporate bylaws, or social statutes.

§ 3.

The cadastral commission.

The cadastres shall be created by a commission, composed of the mayor or a municipal counselor authorized to represent him, and four members or their substitutes.

The commission is assembled as follows: the German and the Czech members of the Town Council each elect two members and two substitutes. Once the curias have been constituted (§ 10), the cadastral commission shall be formed anew, such that each curia shall delegate two members and two substitutes to the commission, for terms coincident in length with those of the Town Council.

The mayor or a member of the Town Board authorized to represent him shall chair the commission.

The commission shall be convened by the chair, and shall hold regular sessions, according to need. Furthermore, should two members so demand, the chair shall be obliged to convene an extraordinary session, within eight days. In order for the commission to have a quorum, the chair and three members, or their substitutes, must be in attendance. For the passage of a resolution, a simple majority vote is required [Earlier version: provided that the law does not specify otherwise]. The chair votes only in the event of a tie. The summoning of substitutes shall be governed by the provisions in § 22 of this law. Should the number of commission members in attendance not comprise a quorum, then the provisions of § 44 of the municipal code apply.

Petitions concerning the cadastre shall be submitted to the cadastral commission. Petitions and statements may be made orally, with the exception of professions and declarations that are the subject of § 2; they must always be submitted in writing. Should the adjudication of a petition or declaration depend on the identity of the person, it shall be determined, if necessary, by two witnesses or by another appropriate method.

Persons not of legal majority and legal entities (§ 1, No. 2) shall be represented by persons authorized thereto by current legislation, corporate bylaws, or social statutes.

§ 4.

Creation of the cadastres.

The two cadastres shall be created separately, in alphabetical order, on the basis of profession and declaration. Persons for whom a definite profession was not submitted within the prescribed period shall be registered by the cadastral commission ex officio, on the basis of an investigation, if necessary, of the person's nationality. Undeclared foundations established for the benefit of the German or Czech nationality shall also be registered ex officio, in the cadastre that corresponds to their mission. Notice of registration ex officio shall be given to the persons and entities registered or to their legal representatives (§ 3, final paragraph).

Registered in both cadastres shall be:

1. military persons on active duty or temporarily on leave, excepting those members of the Armed Forces on active duty only temporarily, as a consequence of a legal obligation to participate in military exercises;
2. the state, the crownland, the district, the municipality of České Budějovice/Budweis, institutions belonging to or administered by them, the Savings Bank in České Budějovice/Budweis, the Chamber of Commerce in České Budějovice/Budweis and funds administered by it, public or spiritual funds, as well as foundations not dedicated to a particular nationality;
3. all remaining legal entities (§ 1, No. 2), as well as citizens of other states and persons who belong neither to the German nor to the Czech race [*kmen/Volksstamm*], or whose nationality could not be determined, if no definite declaration regarding them was submitted within the prescribed period.

§ 5.

Correction of the cadastres.

The cadastres created by the cadastral commission shall be placed

on display in the offices of the municipality on a day determined by the head of the political District Authority, and shall be open to all for 30 days for purposes of inspection and duplication. At the same time, the placing of the cadastres on display shall be publicly announced, together with a statement that objections to the cadastres may be made during the period of public display in accordance with the following provisions:

Persons or legal entities (§ 1, No. 2), save for those to be registered in both cadastres as per § 4, No. 1 and 2, may petition during the period of public display that they be struck from one cadastre and enrolled exclusively in the other. Every person registered only in one of the two cadastres has the right, furthermore, to petition during the period of public display that another person registered in either cadastre be struck from it and registered in the other.

Objections to the cadastre shall be presented by the cadastral commission to the political District Authority within three days. It shall summon the person in question, if of legal majority, for a hearing. The members of the cadastral commission shall be informed of the time of the hearing, and are free to attend.

Should the person whose registration is being challenged live outside the political district of České Budějovice /Budweis, he may request that the hearing be carried out by the political District Authority of his place of residence. The goal of the hearing is to determine either whether the person's profession is genuine, and made in earnest, sincerely and freely, or whether the registration made ex officio coincides with the person's will.

The declaration made at the hearing by the person whose registration is being challenged shall as a rule (§§ 6 and 8) be decisive in settling questions regarding registration in the cadastres.

Should the person in question fail to attend the hearing or fail to make a clear declaration, or should the case

involve the enrollment of wards of the state, the political District Authority shall proceed ex officio. It is obliged to carry out a thorough investigation and examination of the personal and familial conditions of the person in question, and to determine his nationality on the basis of telling characteristics—for which purpose actions shall be taken into account from the private, social, and public life of the person in question that seem reliable and genuine proof of national membership.¹ The Office shall then decide whether to register the person in one or in both of the two cadastres.

In the case of wards of the state, the custodial court shall also be consulted before a decision is made.

As a rule (§§ 6 and 8), the decision of the political District Authority may not be appealed. After settling all petitions for correction submitted during the period of public display, the political District Authority shall ensure that all corrections ordered were in fact carried out, and shall take any further appropriate measures.

§ 6.

Changing of cadastre.

Upon the conclusion of corrections, transfer from one cadastre to the other is permitted only exceptionally, in accordance with the following provisions:

1. for persons of legal majority, together with their family dependents, should they gain the agreement thereto of both curias; transfer may occur only once;
2. for persons of legal majority, together with their family dependents, should they be able to prove that their profession had

¹ This sentence incorporates phrasing from ruling 7846A of the Austrian Administrative Judicial Court, issued on 30 December 1910, which addressed disputes over how a person's national belonging was to be determined in compliance with the Moravian Compromise of 1905.

been made under duress, within a relationship of dependency; transfer, again, may occur only once;

3. for the following members of nationally mixed families: widows of legal majority, upon death of the husband; children, upon death of the father; all persons not of legal majority, upon their achievement thereof; and even before such achievement in the case of persons not of legal majority whose registration did not occur on the basis of a profession by the father, mother, or husband. Widows and children of legal majority may exercise this right only up to one year after the death of the husband or father. The legal representatives of wards of the state may exercise this right at any time, but wards of the state themselves only up to one year after achieving legal majority;

4. persons of legal majority who were registered in a cadastre ex officio. This right may be exercised only up to one year after such persons were notified of their classification.

For military personnel enrolled in both cadastres according to § 4, No. 1, treatment upon the conclusion of military service shall be as with new arrivals to the community.

Persons enrolled in both cadastres according to § 4, No. 3 may request their erasure from one of the two cadastres at any time.

Legal entities entitled by §§ 4, No. 3 and 5 to join one cadastre or the other may at any time request registration only in one cadastre, or in both. They may also request transfer from one cadastre to the other.

[Earlier version: Petitions for change of cadastre shall be adjudicated by the cadastral commission, which shall consult the custodial court in cases involving wards of the state (§ 1, No. 3 or § 3).

Should the commission fail to arrive at a unanimous decision, the commission shall present the relevant petition to the political District Authority, which shall decide the case. Its decision may be appealed through the administrative courts.

A petition for change of cadastre based on the provisions of § 1, No. 1, or § 3 and 4, may not be denied. A petition based on the provisions of § 1, No. 3 and 4 may be denied only in the case of submission after the prescribed period.]

[Later version: The cadastral commission must grant any petition for change of cadastre based on the provisions of § 1, No. 1, or § 3 and 4. Registrations carried out in this fashion may not be challenged.

Other petitions for change of cadastre shall be adjudicated by the cadastral commission. Should a petition be granted, the registration is subject to the correction process detailed in § 7. Should a petition be denied, it shall be forwarded to the political District Authority. It shall undertake the necessary investigation; question the petitioner in accord with § 5, paragraphs 3 and 4; in cases involving wards of the state, consult the custodial court; and then decide whether to grant the petition. The decision may be appealed through the administrative courts.]

§ 7.

Official record-keeping of the cadastres.

Persons of legal majority who were missed when the cadastres were created, or who are required to register subsequently by § 1, as well as representatives either of such persons not of legal majority or of such legal entities (§ 2, No. 2), shall submit a profession or declaration of their own accord, in keeping with the provisions of § 2. In cases in which registration becomes obligatory after the creation of the cadastres, submission shall occur within 14 days of registration becoming obligatory. Otherwise, registration shall

take place in accord with the provisions of § 4.

During the preparation of elections, as well as during tax assessment and school registration, the 14-day registration period may be shortened by the political District Authority to 24 hours.

Persons who were previously registered in a cadastre and who were then removed for change of residence or similar reasons, if required to register again according to § 1, shall be registered in the same cadastre as previously. [Later version: Modification is permitted only if the conditions for change of cadastre specified in § 6 are present.]

As a rule, additions to the cadastres during each quarter shall be registered in the cadastre during the first month of the following quarter. Children of school age shall be registered without delay.

New registrations, when carried out, shall be announced publicly, and a period of 30 days shall be set for the submission of objections. With regard to the submission of objections, and their adjudication, the relevant provisions apply of § 5, from the second to the final paragraph.

Corrections to registration within a cadastre (name, address, etc.) may be submitted at any time. Such submissions shall be adjudicated, without right of appeal, by the political District Authority, after verification.

The cadastres are open for inspection and duplication to any member of a cadastre.

The records of the cadastres shall be maintained by the mayor, together with the chairmen of both curias, according to mutual agreement. [Later version: In case of disagreement, the head of the political District Authority shall settle the matter, without possibility of appeal.]

§ 8.

Right of objection of the curias.

In future, objections made for the purpose of correcting the cadastres

may be submitted also by the national curias.

Should an objection submitted by a curia assert that a cadastral enrollment at odds with the nationality of the person was submitted with the goal of circumventing the law, the political District Authority may make a ruling in the following cases, even if the ruling disregards the preference of the person or his legal representatives:

1. regarding professions by officials and employees of the municipality, of municipal institutions, and of institutions administered by the municipality,
2. regarding professions concerning children of school age.

These objections (No. 1 and 2) are not limited by the deadline set in § 7, paragraph 5; they may be submitted in the case of No. 1 up to one year after the expiration of that earlier deadline, and in the case of No. 2 up to the day of the child's regular admission to a public school in the České Budějovice/Budweis school system. [Later version: But if the curias should not yet have been constituted when the cadastres are proclaimed to be on public display (§ 5), or when additions are being registered, the deadline in the case of No. 1 shall be counted from the day of constitution.

Registration of school-age children in a cadastre against the declaration of their legal representatives has the effect of subjecting those children to the special legal provisions concerning school attendance in the České Budějovice /Budweis municipal school system.]

Decisions of the political District Authority regarding objections covered by § 2, No. 1 and 2 may be appealed through the administrative courts.

Should the objection be upheld, the parents of school-age children have the choice, up to one year from the day when the decision gained legal force, to switch to the cadastre in which their children were registered.

§ 9.

Penal provisions.

Whoever

1. has his place of residence in the České Budějovice/Budweis political district, and without good excuse evades his obligation to submit a national profession or declaration;
2. makes untruthful assertions in his profession or declaration regarding the personal circumstances listed in § 2, paragraph 4b, or causes or attempts to cause another to make such untruthful assertions;
3. causes or attempts to cause another to make an untruthful profession of nationality;
4. fills out or has someone else fill out a form of profession or declaration that another person is supposed to fill out, without authorization or against orders,

shall be punished by the political District Authority with a fine between 10 and 200 crowns, unless the action falls under the provisions of the general penal code. Should the monetary fine prove uncollectable, imprisonment shall be substituted: for a fine between 10 and 20 crowns, one day, and for higher fines, one day for every 20 crowns. Monies collected as fines shall go to the municipal poor-relief fund.

Part the second.

Special provisions regarding the election of the Town Council and Town Board for the town of České Budějovice/Budweis.

§ 10

Election of Council members and substitutes.

The curias.

Members of the Town Council for the town of České Budějovice/Budweis, together with substitutes, shall be elected by voters in two separate groups, based on the Czech and German cadastres.

The individual electoral bodies² shall apportion their elected representatives according to the ratio of voters listed for each cadastre within each electoral body in the official, corrected electoral rolls. Voters belonging to both cadastres shall not be included in calculations. Honorary burghers and burghers who are registered in one cadastre and enfranchised shall be included in calculations for the apportionment of seats only inasmuch as they already possess the right to vote on other grounds.³ In such cases, they shall be included in calculations for that electoral body within which the other grounds entitle them to vote. Should calculations yield a fractional result, the larger fraction prevails. Should the fractions be one and the same, the case shall be decided through the drawing of straws.

[Later version: The apportionment of seats shall be carried out by the mayor. Those elected by the voters of the Czech cadastre form the Czech curia, and those elected by the voters of the German cadastre form the German one.]

§ 11.

Right to vote of honorary burghers and burghers.

...

§ 12.

Restriction of enfranchisement of persons.

² The electoral bodies, three in all, divided the enfranchised population (less than 20%) on the basis of direct taxes paid, as well as personal status (burgher/honorary burgher; holder of academic degree, etc.). Each body elected 12 Council members, for a total of 36—although the first, wealthiest body had fewer than 200 voters, and the third body more than 4,000.

³ Payment of a direct state tax qualified a person (or entity) for membership in an electoral body, with the amount determining which one. But burghers were members of the third body and honorary burghers of the first, even if they paid no taxes at all.

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**§ 13.
Right to vote of co-holders of real estate
or public partners of a corporation.**

...

**§ 14.
Exclusion from the right to vote.**

...

§ 15.
Excluded from the right to vote, furthermore, are those persons of the Czech or German race found by the political District Authority to have exploited registration in a cadastre not coinciding with their nationality in order to influence the proportional distribution of seats within individual electoral bodies (§ 10), and found to be numerous enough in relation to the voters of the relevant cadastral grouping to have hopes of realizing their intention. Should the curias not yet be constituted, or should the Town Council have been dissolved, a petition for the issuance of such a finding may be submitted by any enfranchised member of the cadastral community suffering harm. Otherwise, the curia of that cadastral community shall submit the petition, within the prescribed period for objections to the municipal electoral rolls. The decision of the political District Authority may not be appealed. Municipal elections shall not be held until the petition has been adjudicated.

**§ 16.
Exercise of the right to vote.**

Military personnel, designated in § 4, No. 1, exercise the right to vote, should they possess it, through proxies. All other persons of legal majority shall exercise their right to vote in person. The right to vote of persons not of legal majority, as well as of legal persons, shall be exercised by their representatives (§ 2, No. 2). Co-holders of real estate and public partners of corporations who are entitled to a joint vote shall encharge

one person from among themselves, or a third party, to exercise the vote. In the case of a husband and wife living in a state of matrimony, the right to vote is exercised by the husband.

**§ 17.
Objections.**

In the first elections held under this law, the preparation and revision of the electoral rolls shall be carried out by the mayor, in agreement with the members of the cadastral commission. In subsequent elections, the mayor shall prepare the rolls in agreement with the chairmen of the curias. [Later version: In case of disagreement, the head of the political District Authority shall settle the matter, without possibility of appeal.] In the electoral rolls, it shall be indicated to which national cadastre each voter belongs.

Objections to the electoral rolls must be submitted within a period of 14 days. The person lodging an objection has the right to do so also regarding the cadastre to which he does not belong. The membership of the voter in the national cadastre may not be challenged, however, if the nationality listed in the electoral rolls agrees with the voter's official registration in a cadastre. Should that registration not yet have acquired official status, then it shall be decided in connection with the adjudication of the objection. [Earlier version: Objections shall be submitted individually for each case.]

Should an objection have as its goal the removal of a person from the electoral rolls, he shall be informed, and given the opportunity to present his side of the matter, orally or in writing, to the mayor within three days.

Objections to the electoral rolls shall be decided by the Objections Commission within 14 days.

Decisions of the Objections Commission may be appealed also when the requested correction was approved. The person affected by the decision shall be informed of it.

Once the objections have been adjudicated, the mayor and members of the cadastral commission (in subsequent elections, the chairmen of the curias) shall reapportion the voters among the electoral bodies, should that prove necessary in order to restore the tax ratios set out in § 14 of the municipal electoral code.⁴ Voters registered in both cadastres shall vote with that cadastral grouping which proves to have the majority within the relevant electoral body, provided they did not petition during the objection period to be placed within the other grouping. Should such a petition be made by enfranchised persons, it shall be binding for subsequent elections as well, provided that the person remains registered in both cadastres.

[Later version: In case of disagreement regarding reapportionment of voters among the electoral bodies, the head of the political District Authority shall settle the matter, without possibility of appeal.]

On the basis of the corrected electoral rolls, separate lists of the German and Czech cadastral groupings shall be prepared, and used in the course of the elections.

§ 18.
Identification cards and ballots.

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§ 19.
Election procedures.

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§ 20.
Composition of the Town Board.

The Town Board is composed of the mayor and at least eight Board members.

The mayor is elected by the Town Council from among its midst. Board members are elected by the curias from

among their midst, according to the ratio of their Council members. Should calculations for the apportionment of Board positions yield a fractional result, the larger fraction prevails. Should the fractions be one and the same, the case shall be decided through the drawing of straws.

The curia to which the mayor does not belong elects the first Board member, and the other curia the second. The remaining Board members are elected in the same fashion, with the two curias alternating.

Should the Town Council members of one of the two curias amount to less than one-third of the total, the election of Board members proceeds such that after the election of the first Board member, the majority curia elects its Board members first, then the minority curia.

§ 21.
Election of the mayor.

....

§ 22.
By-elections.

....

Part the third.
Language use in the town of České Budějovice/Budweis.

§ 23.
Communication with members of the public; adjudication of submissions by members of the public.

In written and oral communication with members of the public, the municipality employs that language of the land used by the member of the public.

Written or oral submissions by members of the public shall be answered in the language of submission. The same language shall be used also in the course of all internal administrative action concerning adjudication of the case. This provision does not affect communication with government offices

⁴ Direct state taxes paid by the members of each electoral body were to comprise one-third of the total for the town.

and agencies [*s úřady zeměpanskými a jinými/mit Behörden und Ämtern*].

§ 24.

Proclamations.

Public announcements and documents meant for public consumption shall be composed in both languages of the land. [Inserted in the later version, by hand: Public squares and streets shall also be labeled in both languages of the land.]

The national cadastres shall be kept in the language of the cadastral community in question. Voters registered in both cadastres shall be registered in the electoral rolls and in the special lists prepared for use in the course of elections (§ 17, final paragraph) in both languages. All other voters shall be registered in the language of the cadastral community to which they belong.

§ 25.

Language use in municipal meetings.

In meetings of the Town Board, Town Council, and the commissions, discussion of any given matter shall take place in the language in which the matter is to be settled. Matters subject to a vote shall be presented in both languages of the land. [Earlier version: Otherwise, every member of the Town Council is free to use his language of the land.] [Later version: Otherwise, every member of the Town Council is free to use either of the two languages of the land.]

§ 26.

Official language.

The municipality may designate one of the two languages of the land as its official language, provided that such designation is not to the detriment of the provisions above.

Part the fourth.

Jurisdiction of the curias, and economic consideration of both nationalities in municipal affairs of the town of Budweis/Budějovice.

§ 27.

Jurisdiction of the curias.

The jurisdiction of the curias covers the following, in addition to those matters assigned through other legal provisions:

a) election of the curia chairman and his deputy from among members of the curia,

b) carrying out of elections of commissions and municipal representatives in representative and administrative bodies, for those elections whose organization is the responsibility of the municipality. If the law does not provide otherwise, the number of representatives in every representative and administrative body shall be apportioned between the curias according to the ratio of their Town Board members.

c) defense of the legally sanctioned national interests of the curia [Later version: cadastral community],

d) administration of the assets of the cadastral community, supervision of that administration, setting of an annual budget of receipts and expenditures, and setting of the cadastral tax surcharge (§ 34). Furthermore, the contracting of loans or secured obligations for national purposes, and the preparation of an annual financial balance of the curia. Loans for national purposes may be taken on only if the repayment period is reasonable, and payments of interest and capital on the loan, as well as on additional, already existing debts of the same nature, do not exceed 6.6 per cent annually of those direct taxes subject to the national tax surcharge, and assessed members of the cadastre at the end of the previous year. Decisions by the curias regarding loans or secured obligations must be approved by the District Assembly;

e) adjudication of complaints regarding measures taken by the chairman of the curia.

The curias shall be convened according to need. Sessions shall be convened and chaired by the chairman, or, in his absence, by his deputy. In other matters, the business of the curias must be conducted in accordance with the provisions in §§ 42-50 of the municipal code.

§ 28.

Language use of the curias.

The Czech curia uses the Czech language, and the German curia the German language in all aspects of administration.

§ 29.

Disputes over the apportionment of Town Council seats between the curias.

In case of disagreement concerning the apportionment of seats between the curias in the election of Town Council members and their substitutes (§ 10), of Board members (§ 20), and of commissions and representatives of the municipality in representative and administrative bodies (§ 27), the head of the political District Authority shall settle the matter. His decision may not be appealed.

§ 30.

[Later version: Swearing-in.]

Jurisdiction of the chairman of the curia.

[Later version: Upon taking up their offices, the chairman of the curias and their deputies shall be sworn in, in accordance with § 28 of the municipal code.]

The chairman of the curia serves in matters concerning the cadastral community as chief administrator and executive. His deputy is obliged to assist him in those capacities, and to represent him in his absence.

It is the duty of the chairman to administer the assets of the cadastral community, to represent it to the outside world, to sign documents, to carry out

decisions of the curia, or to halt their implementation, in accordance with §§ 55, 56, and 57 of the municipal code.

The mayor is obliged to provide the curias with the staff necessary for them to carry out their functions.

§ 31.

Allocations for national purposes.

Within the limits set by law for allocations⁵ by municipalities, allocations for national purposes are permitted, provided that more than half of the members of both curias are present when the Town Council votes on the matter, and provided that the proposal passes with an absolute majority of those present, as well as of each curia.

Furthermore, the curias have the right, within the limits of the municipal code, to approve public allocations for national purposes and to raise the necessary funds through the assessment of a surcharge to direct taxes paid by members of the relevant cadastre—excepting taxpayers not required to pay municipal surcharges.

Annual expenditures on such allocations may not exceed 10 percent of those direct taxes subject to the national tax surcharge and assessed members of the cadastre at the end of the previous year. Included in calculations will be payments of interest and capital on loans taken out for national purposes, as well as encumbrances from any secured obligations that might already exist, or be expected (§ 27). [Later version: Expenditures for educational purposes are not to be included. (See § 34)]

§ 32.

Consideration of both nationalities in the hiring of municipal administrative staff.

In the hiring of administrative staff for the municipality, as well as for institutions administered by the municipality, fair consideration must be made, such that members of both nationalities are hired

⁵ to private organizations

at every rank in proportion to their representation in the curias.

For this purpose, records of the rank of Czech and German municipal employees shall be maintained.

Municipal employees on active duty when this law comes into force shall be classified as Czech or German on the basis of whether they are registered in the Czech or German cadastre upon completion of the correction process (§§ 5 and 8).

In future, should the minority curia claim on the basis of the first paragraph above that a particular municipal position should be awarded to a member of its own nationality, then the curia must so state during discussion of the matter in the Town Council, before voting. Should the claim of the curia be denied, it may appeal the decision to the District Assembly. Should the official finding be that the claim was valid, then the Town Council shall be obliged to offer the next position of the same or higher category to one of three appropriately qualified applicants recommended by the curia whose rights were infringed. Employees hired with the recommendation of a curia shall be counted as part of it, even if they are registered in the cadastre of the other curia.

§ 33.

Consideration of both nationalities in the awarding of contracts for goods and services.

In the awarding of contracts by the municipality and by municipal institutions for goods and services, bidders of both nationalities shall be considered, assuming equal quality and price, according to the ratio of direct taxes subject to surcharges that are assessed the members of the two cadastres.

Should the minority curia object during discussion of the annual financial balance that the nationality represented by it did not receive its rightful share of contracts for goods and services during the previous administrative year, the

Town Council must immediately assign a committee to investigate the complaint. Should the dispute not be settled by agreement between the two curias, the Town Council must decide within 30 days whether and to what degree the complaint is justified, and how to satisfy the claim made. Should the Town Council fail to arrive at such a decision within the allotted period, or should one of the curias be dissatisfied with the decision made, then within 14 days of the 30-day period having lapsed or of the Town Council having made a decision, an appeal may be made to the District Assembly. Should the complaint submitted by the curia be officially recognized as justified, the political District Authority, taking into consideration the suggestions of the appellant curia, shall take action in the name and at the expense of the municipality, such that the claim by the curia shall be met—as much as possible, by assigning members of the relevant cadastre a proportionally higher share of contracts for goods or services in the same or in the following administrative year. The Town Council has the right to respond to the suggestions of the curia within an appropriate time period, to be established by the political District Authority.

§ 34.

Cadastral tax surcharges.

For the purpose of covering expenditures for schools and for assorted other legal obligations, such as payments of interest and capital on loans or the financing of allocations for national purposes (§ 31), the curias may assess and collect a cadastral surcharge on those taxes subject to surcharges and paid by taxpayers registered in the relevant cadastre.

Persons registered in both cadastres shall be assessed a surcharge in each cadastral community calculated on the basis of 1/2 of the direct taxes subject to surcharges that those persons were assessed.

The cadastral surcharge is to be collected by the same authorities and through the same means as are state taxes.

The curias must deliver the necessary excerpts from the cadastres to the relevant authorities without delay, together with any subsequent changes.

Those authorities are obliged to notify the curias how much the taxpayers of each cadastre have been assessed in taxes subject to surcharges, and to permit the curias to examine and duplicate the relevant tax and surcharge assessments, as well as receipts.

The provisions of the fifth chapter of the municipal code apply regarding both cadastral surcharges and the financial administration of the curias more generally, inasmuch as the present law does not establish divergent regulations.

The cadastral surcharges are not to be calculated as part of the general municipal surcharges, for which approval from higher bodies is required.

The law of September 19, 1883, No. 51 of the Bohemian civil code, regarding the assessment of municipal surcharges by subordinate, autonomous offices, applies henceforth also to the curias and cadastral surcharges.

§ 35.

Supervision of the curias.

The provisions of §§ 99 and 102 of the municipal code shall apply also to decisions of the curias. The disciplinary power of the District Assembly, established in § 100 of the municipal code, is extended to include the chairmen of the curias and their deputies.

Part the fifth.

Executive provisions.

§ 36.

Purview of the law.

This law shall take effect on the day of its promulgation, together with the law

... issued on _____, No. ____ of the Bohemian civil code, which establishes special provisions for the České Budějovice/Budweis municipal school system, as well as for all other school systems of the České Budějovice /Budweis School District in which there are both German and Czech public elementary schools, regarding school supervision, changes in the creation and maintenance of elementary schools, and attendance in them.

Otherwise the provisions of the municipal and electoral codes for the Kingdom of Bohemia, as amended, shall apply in the town of České Budějovice /Budweis, inasmuch as they do not stand in conflict with this law.

§ 37.

New elections to the Town Council in České Budějovice/Budweis.

As soon as the national cadastres have been created, new elections to the Town Council shall be prepared and carried out without delay.

The Town Council in office upon promulgation of this law shall continue in office even after the expiration of its term, unless subsequently dissolved, until the new Town Council has been constituted.

§ 38. [Deleted from both versions, by hand]

Expansion of the purview of this law.

...

§ 39.

Implementation of the law.

My Minister of the Interior is encharged with implementing this law, in collaboration with other participating ministers.

Law of this day _____, by which are issued special provisions for the České Budějovice/Budweis municipal school system [deleted by hand;], as well as for all other school systems of the České Budějovice/Budweis School District in which there are both German and Czech public elementary schools], regarding school supervision, changes in the creation and maintenance of elementary schools, and attendance in them.

With the assent of the assembly of my Kingdom of Bohemia, I do hereby order as follows:

Section I.

Modification of school conditions in the České Budějovice/Budweis municipal school system.

Local school supervision.

§ 1.

In České Budějovice/Budweis, separate local school boards shall be created for the German and for the Czech schools.

The representatives of the municipality of České Budějovice/Budweis on both local school boards shall be:

1. the chairman of the co-national curia, who shall preside; [earlier version: In his absence, he shall be represented by his deputy, even if the deputy is not a member of the local school board;]
2. representatives and substitutes elected by the co-national curia.

Representatives of the remaining townships that send their children to school in České Budějovice/Budweis shall be elected by [later version:

remainder of paragraph crossed out by hand, and replaced with "the school committees"] the co-national curias, as soon as national curias can be created in those communities. In the meantime, national cadastres shall be created in those communities in accord with §§ 14 ff, and the election shall be carried out by the school committee (§ 16).

§ 2.

Constitution of the local school board shall be announced both to the relevant curia (to the appropriate school committee) and to the District School Board.

§ 3.

The local school board shall be obliged to provide information, expert opinions, and recommendations also to the co-national curia (the co-national school committee).

District school supervision.

§ 4.

The Czech school system in České Budějovice/Budweis shall be assigned to the Czech section of the České Budějovice/Budweis School District. The German school system shall remain in the German section.

§ 5.

In České Budějovice/Budweis, as well as in townships that send their children to school there, the relevant co-national cadastral communities shall replace the local government in determining how many people represent each of the local governments belonging to the school district on the District School Boards.

The members of the District School Board, who shall be apportioned between the cadastral communities, shall be elected by the relevant curia (relevant school committee). If one cadastral community is apportioned no member, the chairman of the curia (school committee) shall participate in

the election of the representative, in place of the mayor.

**[Deleted from later version, by hand]
Kindergarten supervision.**

§ 6.

...

Elementary school attendance.

§ 7.

As a rule, only school children enrolled in the Czech cadastre are to be admitted to the Czech public and private elementary and secondary schools [školý obecny a měšťanské /Volks- und Bürgerschulen] in České Budějovice/Budweis, and only school children enrolled in the German cadastre to the German ones.⁶ If necessary, the cadastral membership of children is to be proven through presentation of cadastral certificates.

Exceptionally, admission to public and private elementary and secondary schools shall be granted to children registered in the other cadastre, if authorization thereto by the competent custodial court is presented. Authorization is to be granted if the child

⁶ This provision follows—but expands, to include not only public schools but private ones as well—the Moravian Compromise's *lex Perek* ["Perek law," named after a Czech leader]. Repeatedly challenged in Moravian courts after 1905, the *lex Perek* ended up on appeal before the Austrian Administrative Judicial Court a number of times. In 1910, it ruled in one decision that the law had endowed local school boards in Moravia with the authority "to exercise the legal claim of their nation not to be deprived of children belonging [angehörigen] by law to that nation's schools." As the Court noted, through the *lex Perek*, "the parents' free will in the choice of the public elementary school to be attended by their children has experienced a significant restriction through the law of November 27, 1905, to the advantage of the national community [Verband]." Budwińskis Sammlung der Erkenntnisse des k.k. Verwaltungsgerichtshofes, Administrativ-rechtlicher Teil, vol. 34 (Wien: Manz, 1911), pp. 1734, 1742 (Case 7843A, 11 December 1910).

commands the language of instruction well enough to be able to use it as a means of communication, and to express his thoughts and ideas.⁷

To deliberations on such petitions, the custodial court shall invite representatives of the national curias (school committees) from the place of residence of the school-age child. Before rendering a decision, the court shall also consult with the director of the elementary school to which admission is desired.

Children whose cadastral membership is being challenged, and has not yet been officially determined, also require authorization from the competent custodial court in order to be admitted to a school.

Children registered in both cadastres shall be admitted to the German or Czech school, according to the wish of their parents or legal representatives. The same applies for children who live outside the school district [deleted from later version, by hand: in a township where national cadastres do not exist], provided that their admission is permitted by the law.

In the course of the school year, should it become clear that some children are unable to follow instruction in appropriate fashion because of insufficient command of the language, but have a sufficient command of the other language of the land, the District School Board shall order the removal of the children from the school, on the recommendation of the teachers' conference. The children shall then be obliged to attend a school of the other language. They must be admitted to the school of the other language, regardless of cadastral membership.

More detailed regulations shall be issued as a decree by the Bohemian School Board, in agreement with the

⁷ This definition of proficiency in a language is taken from ruling 7843A of the Administrative Judicial Court, cited above.

presidency of the Bohemian Superior Court.

Expenditures on the elementary schools.

§ 8.

The České Budějovice/Budweis municipal school system shall be divided, without modification to its boundaries, into a German and a Czech school system. Each shall bear the costs of its own schools.

§ 9.

The German cadastral communities of the townships that send their children to school in České Budějovice/Budweis belong to its German school system, and the Czech cadastral communities to the Czech school system.

The financial needs of the school system shall be apportioned among the cadastral communities. Apportionment is on the basis of the ratio of direct taxes subject to surcharges assessed each cadastral community at the end of the previous year.

The financial needs of the school system are to be met by the relevant national cadastral communities through cadastral surcharges.

§ 10.

Taxpayers of the national cadastre in which the total of assessed taxes subject to surcharges is lower shall not be taxed at a higher percentage rate than taxpayers of the other national cadastre. The resulting deficit shall be covered by the school district.

[Later version, first paragraph of § 10 deleted by hand, and replaced with the following:

Taxpayers of one national cadastre may be assessed a surcharge on direct taxes, for the purpose of covering school expenditures, at a rate no more than two percent higher than the rate assessed taxpayers of the other national cadastre. The resulting deficit shall be covered by the school district, with the limitation indicated in § 11.]

To this end, the local school board shall present its proposed budget for the following year to the District School Board in timely fashion, together with requisite evidence and explanations, for examination and approval.

§ 11.

[Later version, first two paragraphs of § 11 deleted by hand, and replaced with the following:

Should the budget proposal submitted to the district school council contain sums for the defraying of expenditures on school buildings, exercise fields, playgrounds, and other facilities necessary for elementary and secondary schools, only the amount required to pay interest and capital on a corresponding loan of appropriate duration, in no case shorter than 10 years, shall be used to determine the financial contribution of the school district.]

Expenditures on school buildings, as well as exercise fields, playgrounds, and other facilities necessary for elementary schools, shall be covered in the school system with a lower tax assessment through loans of appropriate duration, in no case shorter than ten years.

Only the sums necessary for payment of interest and capital on the loans shall be entered in the budget proposal of the relevant school system.

Permission for the contracting of loans for construction purposes shall be issued to the school system by the District School Board.

§ 12.

When the Czech and German school systems are constituted, each school system shall receive for its exclusive use those buildings used thus far by its schools, together with their grounds, equipment, and teaching aids. Common debt shall be separated in such fashion that each school system takes over further interest and capital payments on those loans that cover

construction costs for buildings allocated to it.

Disagreements that arise hereby shall be resolved by the competent District School Boards, in mutual agreement. Should they fail to come to terms, the matter shall be presented to the Bohemian School Board, which shall decide the matter in plenary discussion.

General provisions.

§ 13.

Cadastral communities and curias (school committees) assume all obligations imposed on the local government or its representative body by laws regulating the creation and maintenance of public elementary schools, together with attendance in them, and succeed to all rights conceded the local government or its representative body therein. In particular, the curias (school committees) are entitled to contest the budget proposals of the school systems.

The curias (school committees) also have the right to request enforcement of the law in cases of pupils being admitted or public elementary and secondary schools being created or expanded by the other cadastral community, when the provisions of this law are not observed.

So that the curias (school committees) might exercise this right, they shall be informed of the factual content of decisions by the school authorities, and shall be free to examine relevant files. A complaint submitted by a curia (school committee), however, does not have suspensive effect.

Section II.

Modification of school conditions in the remaining school systems.

Creation of national cadastres.

§ 14.

The above provisions regarding the municipal school system in České Budějovice/Budweis shall be used in analogous fashion for all remaining

school systems of the České Budějovice/Budweis German and Czech school district in which German as well as Czech public elementary schools already exist, or will exist in future.

Each of these school systems shall be divided, without modification to its boundaries, into a German and a Czech school system. For that purpose, within those townships that form the České Budějovice/Budweis school district, national cadastres shall be created and officially recorded, as directed in the law issued on _____, No. ____ of the Bohemian civil code, which establishes special provisions for the protection of both nationalities in the town of České Budějovice/Budweis, through amendment and amplification of the municipal and electoral codes for the Kingdom of Bohemia—until said law is expanded to include those townships.

§ 15.

...

School committees

§ 16.

...

§ 17.

...

§ 18.

...

§ 19.

...

§ 20.

...

Procedure for the creation of new schools.

§ 21.

....

Section III.

Provisions regarding implementation.

§ 22.

This law shall take effect on the day of its promulgation, together with the law issued on _____, No. ____ of the Bohemian civil code, which establishes special provisions for the protection of both nationalities in the town of České Budějovice/Budweis, through amendment and amplification of the municipal and electoral codes for the Kingdom of Bohemia....

Those provisions of the laws of 24 February 1873, No. 17 of the Bohemian civil code, and 24 June 1890, No. 46 of the Bohemian civil code, regarding school supervision, as well as the laws of 19 February 1870, No. 22 of the Bohemian civil code, 24 February 1873, No. 16 of the Bohemian civil code, and 6 December 1882, No. 76 of the Bohemian civil code, regarding regulation of the creation and maintenance of public elementary schools, together with attendance in them, that are not in conflict with this law shall continue to apply within its purview.

§ 23.

My Minister of Church Affairs and Education is encharged with implementing this law, in collaboration with other participating ministers.