

The Peace of Westphalia

Münster, 24 October 1648

[Excerpts]

[*Introductory note:* The Peace of Westphalia was the treaty that ended the Thirty Years' War in Europe (1618-1648). In fact it was *two* treaties: the first, signed in the city of Münster, was formally an agreement between the Holy Roman Emperor and the King of France; the second, signed in the nearby city of Osnabrück, was between the Emperor and the King of Sweden. Together, these two treaties were meant to settle the conflicts, especially conflicts over religion, that had kept Europe at war for a generation. The kings of Sweden and France pledge to guarantee the terms of this treaty, which in effect made it a pan-European peace treaty, the first of its kind in a long sequence of such settlements. Reproduced here are excerpts from the treaty signed in Münster, between France, the Holy Roman Emperor, and their respective allies].

Peace Treaty between the Holy Roman Emperor
and the King of France and
their respective Allies.

In the name of the most holy and indivisible Trinity: Be it known to all, and every one whom it may concern, or to whom in any manner it may belong, That for many Years past, discords and civil divisions being stirred up in the [Holy] Roman Empire, which increased to such a degree, that not only all Germany, but also the neighboring kingdoms, and France particularly, have been involved in the disorders of a long and cruel war: And in the first place, between the most serene and most puissant Prince and Lord, Ferdinand II of famous Memory, elected Roman Emperor [etc.]...and the most serene and most puissant Prince, Louis XIII, most Christian King of France and Navarre, with his allies and adherents on the other side. ... After having implored for Divine assistance ... the following articles have been agreed on and consented to, and the same run thus.

§ 1. [Proclamation of Peace]

There shall be a Christian and universal peace, and a perpetual, true, and sincere amity, between his Holy Imperial Majesty, and his most Christian Majesty [the king of France]; as also, between all and each of the allies ... And this peace and amity shall be observed and cultivated with such a sincerity and zeal, that each party shall endeavor to procure the benefit, honor and advantage of the other; that thus on all sides they may see this peace and friendship in the roman empire, and the kingdom of France flourish, by entertaining a good and faithful neighborhood.

§ 2. [General Amnesty]

There shall be on the one side and the other a perpetual oblivion, amnesty, or pardon of all that has been committed since the beginning of these troubles...in such a manner, that no body, under any pretext whatsoever, shall practice any acts of hostility, entertain any enmity, or cause any trouble to each other...within or without the extent of the Empire, notwithstanding all covenants made before to the contrary [...].

§ 3. [General Restitution]

¶ 1. [*Restitution of the Imperial Estates*]. According to this foundation of reciprocal amity and general amnesty, each and all of the Electors of the Holy Roman Empire, the Princes and Estates...their vassals, subjects, citizens, inhabitants...shall be fully re-established on the one side and the other, in the ecclesiastic or lay estate they enjoyed, or could lawfully enjoy, notwithstanding any alterations, which have been made in the mean time to the contrary [...].

§ 5 [Regulation of Confessional Relations in the Empire]

¶ 1. [*Confirmation of the Passau Accord of 1552 and the Peace of Augsburg, 1555*]. The accord signed at Passau in 1552 as well as the Religious Peace

of 1555,¹ as it was later confirmed by various Imperial Diets, shall, in all its articles entered into and concluded by the unanimous consent of the Emperor, Electors, Princes and Estates of both religions, be confirmed and observed fully and without infringement...In all matters there shall be an exact and mutual equality between all the Electors, Princes, and Estates of either religion, as far as agrees with the constitution of the realm, the imperial decrees, and the present treaty; so that what is right for one side shall also be right for the other; all violence and other contrary proceedings being herewith between the two sides forever prohibited [...].

With regard to certain contested articles in the present treaty, that have been resolved by the unanimous consent of the parties [involved], this regulation shall be considered the valid interpretation for all time (*pro perpetua dictae pacis declaratione*), which is to be observed at court and in all places, until by the grace of God the religious controversies can be overcome[...].

In all other matters, however, a perfect and reciprocal equality (*aequalitas exacta mutuaque*) between all the Electors, Princes, and Estates of both confessions shall prevail, as befits the constitution of the Empire, the imperial laws and the present treaty, and in the following manner, that that which is just for the one side shall also be for the other and that all use of force...between the two parties shall be forever prohibited.

¶ 2 [*Date Effective for Religious Peace*]. The normative date for the restitution of religious affairs...shall be 1 January 1624. The restitution of all Electors, Princes, and Estates of both confessions, including the imperial knights and the imperial cities and villages, shall therefore transpire without delay, such that all that has occurred in the meantime [i.e., since 1624], all published and executed verdicts, edicts, accords, treaties, and other legal arrangements as well as all of their implementations shall be considered null and void and everything is to be restored to that condition of that above-mentioned year and day.

¹ The Peace of Augsburg (1555), which recognized the right of German princes to establish Lutheranism as the official faith in the territories they ruled.

¶ 9 [*No Majority Vote in Matters of Religion*] There shall be no majority vote [in the *Reichstag*] in matters touching directly or indirectly on religion and there shall be no disadvantage either to subjects of the Holy Roman Empire belonging to the Augsburg Confession or to the Electors, Princes, and Estates [...].

¶ 14 [*Date of Restitution for Imperial Ecclesiastical Principalities*] Concerning the imperial ecclesiastical principalities, be they archbishoprics, bishoprics, prelaties, abbey, provostries, or autonomous women's convents [etc.], these shall with all their incomes, rents, and other privileges...remain, all and sundry, in the undisturbed possession [of whom] they were fully and legally owned on 1 January 1624, whether of Catholic estates or those of the Augsburg Confession, until [such a day] as by the grace of God the religious schism has been finally resolved [...].

¶ 15 [*Loss of Ecclesiastical Office Through Conversion*]. If however a Catholic archbishop, bishop, prelate or a member of the Augsburg Confession who has been elected and postulated as an archbishop, bishop, or prelate...should change religions, they shall be immediately forfeit of their rights, usufructs, and incomes, without damage to their prestige and honor (*honore tamen famaue illibatis*) [...].

But if a member of the imperial estates—whether they adhere to the Catholic faith or the Augsburg Confession—has been deprived of his archbishopric, bishopric, ecclesiastical office or other imperial benefice since 1 January 1624, whether by judicial or extrajudicial means, they shall on the authority of this treaty be restored to both the secular and spiritual rights, notwithstanding all changes [introduced in the interim], and in such a manner that all imperial ecclesiastical lordships that were subject to a Catholic prelate on 1 January 1624 once again receive a Catholic overlord, and vice versa that all those possessions that belonged to an adherent of the Augsburg Confession on the date effective [1 January 1624] shall also possess them in future. However, all usufructs, damages, and costs already incurred that might be demanded by the one from the other shall not be compensated [...].

¶ 31 [*Rights of Protestants in Catholic Territories*]. It is not contrary to this provision [i.e., ¶ 30], that the domiciled inhabitants, vassals, and subjects of Catholic princes, of whatever condition they may be, shall be allowed to continue to enjoy whatever public or private practice of religion was enjoyed at any time during the 1624...whether [they were enjoyed] on the basis of a particular treaty or in accord with ancient custom and local usage, insofar as these rights were actively claimed in the above-mentioned year [1624] or can be proven to have been used [...]

¶ 34 [*Toleration for Religious Minorities*] It has been agreed that the subjects of Catholic Estates adhering to the Augsburg Confession and vice versa, the subjects of Estates in the Augsburg Confession adhering to the Catholic faith, who at no time in the year 1624 possessed the right to the public or private exercise of religion, as well as those who subsequent to the conclusion of this Peace shall adopt a confession of faith different from that of their territorial lord, shall be tolerated with clemency and not hindered by their territorial overlord to practice their observance privately, within their homes, and in the perfect freedom of conscience, without any interference or impairment, to participate in public religious services in their neighborhood wherever and as often as they wish, and to have their children educated either at foreign schools or at home by private tutors. In addition, moreover, all domiciled inhabitants, vassals, and subjects shall fulfill their duty in all proper obedience and not give cause to any disturbance [...].

¶ 36 [*Protection of Emigrants' Assets*] Should a subject who in the year 1624 enjoyed neither the public nor the private exercise of religion, or someone who subsequent to the conclusion of this Peace would change confession, wish to emigrate voluntarily or be forced by his territorial lord to emigrate, he shall be at liberty either to retain his worldly goods, or to emigrate after having sold them, or to have an agent administer the goods left behind on his behalf [...].

¶ 52 [*Establishing the "Itio in Partes"*]. In religion and other related matters, in which the Estates cannot be regarded as a single body, conflicts shall be

resolved by an equitable agreement (*amicabilis compositio*) without regard for the majority of votes [...].

§ 7 [Equal Status for the Reformed Confession]

¶ 1. It is agreed by the unanimous consent of His Imperial Majesty and all the Estates of the Empire that whatever rights and benefits are conferred upon the Estates and subjects of the Catholic and Augsburg faiths, either by the constitutions of the Empire, or by the Religious Peace and this public treaty...shall also apply to those who are called Reformed²[...].

But because certain religious controversies prevailing among the above-mentioned Protestants have not yet been...resolved, and therefore the Protestants form two parties, it has been agreed between them concerning the right of reforming the practice of religion (*ius reformati*) that if a Prince, territorial overlord, or other church patron should go over to the faith of the other party, and if [he wishes to] retain—whether on the basis of hereditary law or the present peace treaty or some other title—his Principality or Lordship in which now the faith of the other party prevails, he shall be allowed to retain a court chaplain of his own faith in his residence, avoiding all disadvantage and burden to his subjects. But he will not be permitted to alter the public practice of religion and the ecclesiastical laws and ordinances that have been valid up until that time, nor alienate churches, schools, hospitals or the incomes, rents, and stipends of their previous owners and confer them on an [adherent] of his own confession, or impose on his subjects a pastor of the other confession, whether under the pretext of territorial sovereignty, episcopal authority, ecclesiastical patronage or any other right, or in any way hinder or cause disadvantage to the other confession either directly or indirectly. And in order that this agreement be all the more firmly observed, in the event of such a change of confession [by the Prince] the congregations shall be allowed to present their own teachers and pastors, and if they do not possess the right of presentation, to recommend one to

² I.e., Calvinist.

the proper consistory or other ecclesiastical authority over the congregation [...].

¶ 2. However, if in the event of [such] a change, a congregation should have adopted the confession of its Lord and demand the right to exercise the religion of the faith to which their Prince or Lord adheres, this shall be allowed them at their own expense without disadvantage to the other congregations; [the Prince's] successor may attempt dissolve such [a this change of confession] [...].

Beyond the religions mentioned above, none shall be received or tolerated in the Empire.³

§ 8 [Constitutional Position of Imperial Estates]

¶ 1 [*Confirmation of Rights*]. To prevent for the future any differences arising in political matters, all and every one of the Electors, Princes and Estates of the Holy Roman Empire, are so established and confirmed in their ancient rights, prerogatives, liberties, privileges, free exercise of territorial right both in ecclesiastical and in political matters, in their lordships and sovereign rights, by virtue of this present transaction: that they never can or ought to be molested therein by any whomsoever upon any manner of pretence.

§ 2 [*Rights of Imperial Estates*]. They shall enjoy without contradiction, the right of suffrage in all deliberations touching the affairs of the Empire, especially when the business in hand involves the making or interpreting of laws, declaring wars, imposing taxes, levying or quartering soldiers, erecting new fortifications in the territories of the Estates, or reinforcing the old garrisons; as also when a peace of alliance is to be concluded, and [...] the like. In these and other things, nothing shall be acted in the future except by the common free choice and consent of all the Estates of the Empire. Above all, it shall be free perpetually to each of the Estates of the Empire to make alliances with strangers for their preservation and

³ In other words: the Anabaptists and other sects continue to be excluded (at least officially) from any religious settlement.

safety⁴; provided, nevertheless, such alliances be not against the Emperor, and the Empire, nor against the public peace, and this treaty, and without prejudice to the oath by which every one is bound to the Emperor and the Empire.

¶ 3 [*The next Reichstag*]. The Diet of the Empire [*Reichstag*] shall be held within six months after the ratification of the peace; and after that time as often as the public utility, or necessity requires. In the first Diet, the defects of earlier assemblies shall be remedied. The form and election of the King of the Romans shall also be treated and settled by common consent of the Estates...by an Imperial Resolution...[The *Reichstag*] shall also consider re-establishing the Imperial Circles, the renewing the Matricular-Book, the re-establishing suppressed States, the moderating and lessening the imperial taxes, reforming justice and policy, the taxing of fees in the Imperial Chamber Court...and such other Business as could not be here expedited.⁵

¶ 4 [*Voting Rights for the Imperial Cities*]. At both general and particular assemblies of the Imperial Diet, the free imperial cities and other Estates of the Empire shall have decisive votes; they shall, without molestation, keep their sovereign rights, customs, annual revenues, liberties, privileges to confiscate, to raise taxes, and other rights, lawfully obtained from the Emperor and Empire, or enjoyed long before these wars, with a full jurisdiction within the enclosure of their walls, and their territories[...].⁶

⁴ This clause—conferring the right to conclude diplomatic treaties with powers outside the Empire—represents a major enhancement for the sovereignty of the imperial princes, i.e., those who had no other overlord than the Emperor himself.

⁵ This did not, in fact, occur; the first *Reichstag* following the signing of the Peace of Westphalia met in the imperial city of Regensburg in 1653.

⁶ This clause gives the vote to representatives of the imperial cities at sessions of the *Reichstag*. Since the fifteenth century, representatives of the imperial cities had attend the *Reichstag*, but only as observers; from now on they would enjoy a collective right to vote. As a group, the “Council of Cities” (*Städterat*), which in turn was composed of two regional subgroups or “benches”. Fourteen cities occupied the “Rhenish Bench” and thirty-seven in “Swabian Bench”. As with the other two councils, a majority commits the whole council in votes of the plenary *Reichstag*

§ 16 [Execution of the Treaty]

¶ 1 [*General Regulation*]. As soon as the Treaty of Peace shall be signed and sealed by the plenipotentiaries and ambassadors, all hostilities shall cease, and all parties shall study immediately to put in execution what has been agreed to, and that the same may be the better and quicker accomplished, the peace shall be solemnly published the day after the signing thereof in the usual form at the cross of the cities of Münster and of Osnabrück [...].

¶ 19 [*General Discharge of Unneeded Soldiers*] Finally, the troops and armies of all those who are making war in the Empire shall be disbanded and discharged; only each party shall send to and keep up as many men in his own dominion, as he shall judge necessary for his security.

§ 17 [Legal Authority of the Peace]

¶ 1 [*Ratification of the Peace Treaty*]. The ambassadors and plenipotentiaries of the Emperor, of the King [of France], and the Estates of the Empire, promise respectively and the one to the other, to cause the Emperor, the Most Christian King [of France], the Electors of the Holy Roman Empire, the Princes and Estates, to agree and ratify the peace which has been concluded in this manner, and by general consent; and so infallibly to order it, that the solemn Acts of Ratification be presented at Münster, and mutually and in good form exchanged in the term of eight weeks, to reckon from the day of signing.

¶ 2 [*The Treaty as Fundamental Law of the Empire*]. For the greater firmness of all and every one of these articles, this present treaty shall serve for a perpetual law and established sanction of the Empire, to be inserted like other fundamental laws and constitutions of the Empire in the acts of the next Diet of the Empire, and the Imperial Capitulation; binding no less the absent than the present, the ecclesiastics than seculars, whether they be Estates of the Empire or not: insomuch as that it shall be a prescribed Rule, perpetually to be followed, as well by the Imperial counselors and officers, as those of other Lords, and all judges and officers of courts of justice.

Source: "Treaty of Westphalia," (<http://www.tufts.edu/departments/fletcher/multi/texts/historical/westphalia.txt>); "Das Verfassungswerk des Westfälischen Friedens 1748-1711," in Arno Buschmann, ed., *Kaiser und Reich: Klassische Texte zur Verfassungsgeschichte des Heiligen Römischen Reiches Deutscher Nation vom Beginn des 12. Jahrhunderts bis zum Jahre 1806* (Munich: Deutscher Taschenbuch Verlag, 1984), 285-590. Translation © David M. Luebke [based on the British Foreign Office translation of 1648].