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# Austria's Constitution of 1920, Reinstated in 1945, with Amendments through 2013

[Subsequently amended](#)

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# Chapter I General Provisions. European Union

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## A. General Provisions

- Type of government envisioned

### Art 1

Austria is a democratic republic. Its law emanates from the people.

### Art 2

1. Austria is a federal state.
2. The Federal State is composed of the autonomous Laender of Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tirol, Vorarlberg and Vienna.
3. Changes in the composition of the Laender or a restriction of the involvement of the Laender provided for in this para and in Art 3 also require constitutional regulations of the Laender.

### Art 3

- Accession of territory
- Secession of territory
- Treaty ratification

1. The Federal territory comprises the territories of the Federal Laender.
2. State treaties changing the Federal boundaries may only be concluded with the approval of the Laender affected.
3. Modifications of boundaries within the Federal territory require concurrent laws of the Federation and the Laender affected. Ratifications of boundaries within the Federal territory only require concurrent laws of the Laender affected.
4. Resolutions of the National Council on modifications of boundaries according to para 2 and 3, to the extent they do not concern retification of boundaries, require at least the votes of half of the members and the majority of two thirds of the votes cast.

### Art 4

1. The Federal territory is a uniform currency, economic and customs area.
2. Intermediate customs barriers or other traffic restrictions may not be established within Federal territory.

### Art 5

- National capital

1. The Federal capital and seat of the highest Federal authorities is Vienna.
2. For the duration of extraordinary circumstances the Federal President can, at the request of the Federal Government, relocate the seat of the highest Federal authorities to another location in the Federal territory.

### Art 6

1. For the Republic of Austria there prevails a uniform nationality.
2. Nationals are citizens of the Land where they have their principal domicile; Land laws can however stipulate that also nationals who have a domicile, but not their principal domicile, in the Land are citizens of that Land.
3. A person's principal domicile is established in the place where he has settled with the intention, provable or emerging from the circumstances, of setting up there the centre of his relations of life. If this requirement is, on the basis of an overall consideration of a person's professional, economic and social relations of life, met by more than one domicile, this person has to designate as his principal domicile the one which he has the closest relationship to.
4. In the matters pertaining to holding the election of the Federal President, of elections for the general representative bodies and the European Parliament, the election of the mayor by those entitled to elect the municipal council, in the matters pertaining to holding referenda, plebiscites and public opinion polls on

4. the basis of the federal constitution or the constitution of a Land, as well as in matters of the direct participation of those entitled to elect the municipal council in handling the matters of their own sphere of competence of the municipality, for the duration of a detention or arrest in the sense of the Federal Constitutional Act on the protection of personal liberty, Federal Law Gazette No. 684/1988, the last residences, outside the place of arrest or detention, or the last main residence, outside the place of arrest or detention, before the detention or arrest are deemed to be the residences resp. main residence of the person detained or arrested.

- General guarantee of equality

## Art 7

- Equality for persons with disabilities
- Equality regardless of social status
- Equality regardless of religion
- Equality regardless of parentage
- Equality regardless of gender
- Equality regardless of financial status
- Equality regardless of gender

1. All nationals are equal before the law. Privileges based upon birth, sex, estate, class or religion are excluded. No one shall be discriminated against because of his disability. The Republic (Federation, Laender and municipalities) commits itself to ensuring the equal treatment of disabled and non-disabled persons in all spheres of everyday life.
2. The Federation, Laender and municipalities subscribe to the de-facto equality of men and women. Measures to promote factual equality of women and men, particularly by eliminating actually existing inequalities, are admissible.
3. Official designations can be applied in such a way as to indicate the sex of the officer holder. The same holds good for titles, academic degrees and descriptions of occupations.
4. Public employees, including members of the Federal Army, are guaranteed the unrestricted exercise of their political rights.

## Art 8

- Official or national languages
- Protection of language use
- Integration of ethnic communities
- Right to culture

1. German is the official language of the Republic without prejudice to the rights provided by Federal law for linguistic minorities.
2. The Republic (Federation, Laender and municipalities) subscribe to its linguistic and cultural multiplicity having grown, expressed in the autochthonous ethnic groups. Language and culture, existence and preservation of these ethnic groups are to be respected, safeguarded and to be supported.
3. The Austrian sign language is recognized as independent language. Details are regulated by the laws.

## Art 8a

- National flag

1. The colours of the Republic of Austria are red-white-red. The flag consists of three identically broad horizontal stripes of which the intermediate is white, the upper and the lower are red.
2. The coat of arms of the Republic of Austria (the Federal coat of arms) consists of an unfettered, single-headed, black, gilt-armed and red-tongued eagle on whose breast is imposed a red shield intersected by a silver crosspiece. On its head the eagle bears a mural crown with three visible merlons. A sundered iron chain rings both talons. The right holds a golden sickle with inward turned blade, the left a golden hammer.
3. Detailed provisions, in particular as to safeguard of the colours, the coat of arms, and the seal of the Republic, are settled by Federal law.

## Art 9

- International law
- Customary international law
- International organizations

1. The generally recognized rules of international law are regarded as integral parts of Federal law.
2. By Law or state treaty having been approved according to Art 50 para 1 may transferred specific Federal competences to other states or intergovernmental organizations. The same way the activity of agents of foreign states or intergovernmental organizations inside Austria and the activity of Austrian agents abroad may be regulated as well as the transfer of single Federal competences of other states or intergovernmental organizations to Austrian agents be provided for. Within this frame it may be provided for that Austrian agents shall be subject to the authority of agents of other states or intergovernmental organizations or such be subject to the authority of Austrian agents.

## Art 9a

1. Austria subscribes to comprehensive national defence. Its task is to preserve the Federal territory's outside independence as well as its inviolability and its unity, especially as regards the maintenance and defence of permanent neutrality. In this connection, too, the constitutional establishments and their capacity to function as well as the democratic freedoms of residents are to be safeguarded and defended against acts of armed attack from outside.
2. Universal national defence comprises military, intellectual, civil and economic national defence.
3. Every male national is liable to military service. Female nationals may render voluntary service in the Federal Army as soldiers and have the right to terminate such service.
4. Conscientious objectors who refuse the fulfilment of compulsory military service and are exonerated therefrom must perform an alternative service (civilian service).

- Right to conscientious objection
- Duty to serve in the military

- Right to conscientious objection

## Art 10

1. The Federation has powers of legislation and execution in the following matters:
  1. the Federal Constitution, in particular elections to the National Council, and popular petition, public referendum and public plebiscite as provided by the Federal Constitution; the Constitutional Court; the Administrative Court; with the exception of the organization of the administrative courts of the Laender;
  - 1a. elections for the European parliament; European citizen action groups;
  2. external affairs including political and economic representation with regard to other countries, in particular the conclusion of international treaties, notwithstanding Laender competence in accordance with Art 16 para 1; demarcation of frontiers; trade in goods and livestock with other countries; customs;
  3. regulation and control of entry into and exit from the Federal territory; immigration and emigration including the right of abode for humanitarian reasons; passports; residence prohibition, expulsion and deportation; asylum; extradition
  4. Federal finances, in particular taxes to be collected exclusively or in part on behalf of the Federation; monopolies;
  5. the monetary, credit, stock exchange and banking system; the weights and measures, standards and hallmark system;
  6. civil law affairs, including the rules relating to economic association but excluding regulations which render real property transactions, legal acquisition on death by individuals outside the circle of legal heirs not excepted, with aliens and transactions in built-up real property or such as is earmarked for development subject to restrictions by the administrative authorities; private endowment affairs; criminal law, excluding administrative penal law and administrative penal procedure in matters which fall within the autonomous sphere of competence of the Laender; administration of justice; establishments for the protection of society against criminal or otherwise dangerous elements; copyright; press affairs; expropriation in so far as it does not concern matters falling within the autonomous sphere of competence of the Laender; matters pertaining to notaries, lawyers, and related professions;
  7. the maintenance of peace, order and security including the extension of primary assistance in general, but excluding local public safety matters; the right of association and assembly; matters pertaining to personal status, including the registration of births, marriages and deaths, and change of name; aliens police and residence registration; matters pertaining to weapons, ammunition and explosives, and the use of fire-arms;
  8. matters pertaining to trade and industry; public advertising and commercial brokerage; restraint of unfair competition; antitrust law patent matters and the protection of designs, trade marks, and other commodity descriptions; matters pertaining to patent agents; matters pertaining to civil engineering; chambers of commerce, trade, and industry; establishment of professional associations in so far as they

- Subsidiary unit government

- International organizations
- International law

- Protection of stateless persons
- Restrictions on entry or exit
- Power to deport citizens
- Extradition procedure

- Provisions for intellectual property
- Protection from expropriation

- Freedom of association
- Freedom of assembly

- Right to competitive marketplace
- Provisions for intellectual property

- Telecommunications
1.
    8. extend to the Federal territory as a whole, but with the exception of those in the field of agriculture and forestry;
    9. the traffic system relating to the railways, aviation and shipping in so far as the last of these does not fall under Art 11; motor traffic; matters, with exception of the highway police, which concern roads declared by Federal law as Federal highways on account of their importance for transit traffic; river and navigation police in so far as these do not fall under Art 11; the postal and telecommunications system; environmental compatibility evaluation for projects relating to these matters where material effects on the environment are to be anticipated;
    10. mining; forestry, including timber flottage; water rights; control and conservation of waters for the safe diversion of floods or for shipping and raft transport; regulation of torrents; construction and maintenance of waterways; regulation and standardization of electrical plants and establishments as well as safety measures in this field; provisions pertaining to electric power transmission in so far as the transmission extends over two or more Laender; matters pertaining to steam and other power-driven engines; surveying;
    11. labour legislation in so far as it does not fall under Art 12; social and contractual insurance; legal provisions of social compensation; fostering money; chambers for workers and salaried employees with the exception of those relating to agriculture and forestry;
    12. public health with the exception of burial and disposal of the dead and municipal sanitation and first aid services, but only sanitary supervision with respect to hospitals, nursing homes, health resorts and natural curative resources; measures to counter factors hazardous to the environment through the transgression of emission limits; clear air maintenance notwithstanding the competence of the Laender for heating installations; refuse disposal in respect of dangerous refuse, but in respect of other refuse only in so far as a need for the issue of uniform regulations exists; veterinary affairs; nutrition affairs, including foodstuffs inspection; regulation of commercial transactions in seed and plant commodities, in fodder and fertilizer as well as plant preservatives, and in plant safety appliances including their admission and, in the case of seed and plant commodities, likewise their acceptance;
    13. archive and library services for the sciences and specialist purposes; matters pertaining to Federal collections and establishments serving the arts and sciences; matters pertaining to the Federal theatres with the exception of building affairs; the preservation of monuments; religious affairs; census as well as - allowing for the rights of the Laender to engage within their own territory in every kind of statistical activity other statistics in so far as they do not serve the interests of one Land only; endowments and foundations when their purposes extend beyond a single Land's sphere of interests and they have hitherto not been autonomously administered by the Laender;
    14. organization and command of the Federal police; settlement of the conditions pertaining to the establishment and organization of other protective forces with the exception of the municipal constabularies; settlement of the conditions pertaining to the armament of the protective forces and their right to make use of their weapons.
    15. military affairs; matters pertaining to civilian service; war damage; care of war graves; whatever measures seem necessary by reason or in consequence of war to ensure the uniform conduct of economic affairs, in particular with regard to the population's supply with essentials;
    16. the establishment of Federal authorities and other Federal agencies; service code for and staff representation rights of Federal employees;
    17. population policy in so far as it concerns the grant of children's allowances and the creation of burden equalization on behalf of families;
    18. (Note: repealed by F.L.G. I No. 12/2012)
  2. In Federal laws on the right of succession to undivided farm estate as well as in Federal laws promulgated in accordance with para 1 subpara 10 above Land legislatures can be empowered to issue implementing provisions with respect to individual provisions which must be specifically designated. The provisions of Art 15 para 6 shall be analogously applied to these Land laws. Execution of the implementing laws issued in such cases lies with the Federation, but the enabling ordinances, in so far as they relate to the implementing provisions of the Land law, need foregoing agreement with the Land government concerned.
- Protection of environment
  - Reference to art
  - Reference to science
  - Census

- Treaty ratification

3. The Federation must allow the Laender opportunity to present their views before its conclusion of treaties which within the meaning of Art 16 render necessary enabling measures or affect the autonomous sphere of competence of the Laender in another way. Is the Federation in possession of a uniform comment by the Laender, the Federation is bound thereby when concluding the state treaty. It may deviate therefrom only for compelling foreign policy reasons; the Federation must advise the Laender of these reasons without delay.
4. (Note: Repealed by F.L.G. No. 1013/1994)
5. (Note: Repealed by F.L.G. No. 1013/1994)
6. (Note: Repealed by F.L.G. No. 1013/1994)

## Art 11

1. In the following matters legislation is the business of the Federation, execution that of the Laender:
  1. nationality;
  2. professional associations in so far as they do not fall under Art 10, but with the exception of those in the field of agriculture and forestry as well as in the field of alpine guidance and skiing instruction and in that of sport instruction falling within Laender autonomous competence;
  3. social housing affairs except for the promotion of domestic dwelling construction and domestic rehabilitation;
  4. road police;
  5. sanitation;
  6. inland shipping as regards shipping licences, shipping facilities and compulsory measures pertaining to such facilities in so far as it does not apply to the Danube, Lake Constance, Lake Neusiedl, and boundary stretches of other frontier waters; river and navigation police on inland waters with the exception of the Danube, Lake Constance, Lake Neusiedl, and boundary stretches of other frontier waters;
  7. Environmental impact assessment for projects relating to these matters where material effects on the environment are to be anticipated; in so far as a need for the issue of uniform regulations is considered to exist, the approval of such projects.
  8. Animal protection, to the extent not being in the competence of Federal legislation according to other regulations, with the exception of the exercise of hunting or fishing.
2. In so far as a need for the issue of uniform regulations is considered to exist, the administrative procedure, the general provisions of administrative penal law, the administrative penal procedure and the administrative execution also in matters where legislation lies with the Laender, are prescribed by Federal law; divergent regulations can be made in Federal or Laender laws settling the individual spheres of administration only when they are requisite for regularization of the matter in hand.
3. Enabling ordinances to the Federal laws promulgated in accordance with paras 1 and 2 above shall be issued, save as otherwise provided in these laws, by the Federation. The manner of publication for enabling ordinances whose issue by the Laender in matters concerning para 1, subparas 4 and 6 above is empowered by Federal law can be prescribed by Federal law.
4. The application of the laws promulgated pursuant to para 2 and the enabling ordinances issued hereto lies with the Federation or the Laender, depending on whether the business which forms the subject of the procedure is a matter for execution by the Federation or the Laender.
5. Federal laws can lay down uniform output limits for atmospheric pollutants in so far as a need for the issue of uniform regulations exists. These may not be exceeded in the Federal and Land regulations prescribed for the individual sectors of the administration.
6. In so far as a need for the issue of uniform regulations is considered to exist, Federal law shall likewise prescribe the citizens' participation procedure for projects to be governed by Federal law, the participation in the administrative procedures subsequent to a citizens' participation procedure, and consideration of the results of the citizens' participation procedure at the time of the issue of the requisite permissions for the projects in question as well as the approval of the projects specified in Art 10 para 1 subpara 9. In respect of the execution of these regulations para 4 applies.

- Protection of environment



7. In the matters specified in para 1 subpara 7 and 8 the following powers are vested in the Federal Government and in the individual Federal ministries as against a Land Government:
  1. the power to inspect via Federal agencies documents of the Land authorities;
  2. the power to demand the transmission of reports respecting the execution of laws and ordinances issued by the Federation;
  3. the power to demand for the preparation of the issue of laws and ordinances by the Federation all information necessary respecting execution;
  4. the power in certain instances to demand information and the presentation of documents in so far as this is necessary for the exercise of other powers.

## Art 12

1. In the following matters legislation as regards principles is the business of the Federation, the issue of implementing laws and execution the business of the Laender:
  1. social welfare; population policy in so far as it does not fall under Art 10; public social and welfare establishments; maternity, infant and adolescent welfare; hospitals and nursing homes; requirements to be imposed for health reasons on health resorts, sanatoria, and health establishments; natural curative resources;
  2. public institutions for the adjustment of disputes out of court;
  3. land reform, in particular land consolidation measures and resettlement;
  4. the protection of plants against diseases and pests;
  5. matters pertaining to electric power in so far as they do not fall under Art 10;
  6. labour legislation and the protection of workers and employees in so far as it is a matter of workers and employees engaged in agriculture and forestry.
2. Fundamental laws and fundamental provisions in Federal legislation shall be expressly specified as such.

- Protection of environment

## Art 13

1. The competences of the Federation and the Laender in the field of taxation will be prescribed in a special Federal constitutional law ("Constitutional Finance Law").
2. The Federation, the Laender, and the municipalities must aim at the securement of an overall balance and sustainable balanced budgets in the conduct of their economic affairs. They have to coordinate their budgeting with regard to these goals.
3. Federation, Laender and municipalities have to aim at the equal status of women and men in the budgeting.

- Subsidiary unit government

- Budget bills
- Balanced budget

## Art 14

1. Save as provided otherwise in the following paragraphs, legislation and execution in the field of schooling and in the field of education in matters pertaining to pupil and student hostels are the business of the Federation. The matters settled in Art 14a do not belong to schooling and education within the meaning of this Article.
2. Save as provided otherwise by para 4 subpara a below, legislation is the business of the Federation, execution the business of the Laender in matters pertaining to the service code for and staff representation rights of teachers at public compulsory schools. Such Federal laws can empower Land legislatures to issue implementing provisions to individual provisions which shall be precisely specified; in these instances the provisions of Art 15 para 6 apply analogously. The enabling ordinances in respect of such Federation laws, save as provided otherwise herein, shall be issued by the Federation.
3. In the following matters legislation as regards principles is the business of the Federation, the issue of implementing laws and execution the business of the Laender:
  1. social welfare; population policy in so far as it does not fall under Art 10; public social and welfare establishments; maternity, infant and adolescent welfare; hospitals and nursing homes; requirements to be imposed for health reasons on health resorts, sanatoria, and health establishments; natural curative resources;
  2. public institutions for the adjustment of disputes out of court;
  3. land reform, in particular land consolidation measures and resettlement;
  4. the protection of plants against diseases and pests;
  5. matters pertaining to electric power in so far as they do not fall under Art 10;
  6. labour legislation and the protection of workers and employees in so far as it is a matter of workers and employees engaged in agriculture and forestry.

3.
  - a. composition and disposition, including their members' appointment and remuneration, of the boards to be constituted as part of the Federal school authorities;
  - b. framework organization (structure, organizational forms, establishment, maintenance, dissolution, local districts, sizes of classes and instruction periods) of public compulsory schools;
  - c. framework organization of publicly maintained student hostels provided exclusively or mainly for pupils of compulsory schools;
  - d. professional employment qualifications for kindergarten teachers and educational assistants to be employed by the Laender, municipalities, or municipal associations at the centres and student hostels provided exclusively or mainly for pupils of compulsory schools.
4. In the following matters legislation and execution is the business of the Laender:
  - a. competence of authorities, on the basis of laws promulgated pursuant to para 2 above, to exercise the service prerogative over teachers at public compulsory schools; the Laender laws shall provide that the Federal school authorities must participate in appointments, other selections for service positions, and awards as well as in eligibility and disciplinary proceedings. The participation in appointments, other selections for service positions, and awards shall at all events comprise a right of nomination on the part of the primary level Federal school authority; in the laws of the Land can be established that the service prerogative over teachers for public compulsory schools is fulfilled by the respective school agency of the Federation, which is bound by instructions of the Land government.
  - b. the kindergarten system and the day-homes system.
5. In the following matters legislation and execution are, in deviation from the provisions of paras 2 to 4 above, the business of the Federation:
  - a. public practice schools, demonstration kindergartens, demonstration day-homes and demonstration student hostels attached to a public school for the purpose of practical instruction as provided by the curriculum;
  - b. publicly maintained student hostels intended exclusively or mainly for pupils of the practice schools mentioned in subpara a above;
  - c. the service code for and staff representation rights of teachers, educational assistants and kindergarten teachers at the public institutions mentioned in subparas a and b above.
- 5a. Democracy, Humanity, solidarity, peace and justice as well as openness and tolerance towards people are the elementary values of the school, based on which it secures for the whole population, independent from origin, social situation and financial background a maximum of educational level, permanently safeguarding and developing optimal quality. In a partnership-like cooperation between pupils, parents and teachers, children and juveniles are to be allowed the optimal intellectual, mental and physical development to let them become healthy, self-confident, happy, performance-oriented, dutiful, talented and creative humans capable to take over responsibility for themselves, fellow human beings, environment and following generations, oriented in social, religious and moral values. Any juvenile shall in accordance with his development and educational course be led to independent judgement and social understanding, be open to political, religious and ideological thinking of others and become capable to participate in the cultural and economic life of Austria, Europe and the world and participate in the common tasks of mankind, in love for freedom and peace.
6. Schools are institutions in which pupils shall be educated together according to a comprehensive fixed curriculum and in which, in connection with the imparting of knowledge and skills, a comprehensive educational goal is strived for. Public schools are those schools which are established and maintained by authorities so required by law. The Federation is the authority so required by law in so far as legislation and execution in matters pertaining to the establishment, maintenance and dissolution of public schools are the business of the Federation. The Land or, according to the Laender statutory provisions, the municipality or a municipal association is the authority so required by law in so far as legislation or implementing legislation and execution in matters pertaining to establishment, maintenance and dissolution of public schools are the business of the Land. Admission to public school is open to all without distinction of birth, sex, race, estate, class, language and religion, and in other respects within the limits of the statutory requirements. The same applies analogously to kindergartens, day homes and student hostels.

- Reference to fraternity/solidarity
- Rights of children

- Free education

- 6a. Legislation has to provide a differentiated school system which is organized according to the educational program at least in general educational and vocational schools and according to the level of education in primary and secondary schools, in which further adequate distinguishing shall be provided for the secondary schools.
- 7. Private schools are other than public schools; they shall be accorded public status according to the statutory provisions.
- 7a. The compulsory school attendance is at least nine years and also compulsory vocational school attendance exists.
- 8. The Federation is entitled, in matters which in accordance with paras 2 and 3 appertain to the execution by the Laender, to obtain information about adherence to the laws and ordinances issued on the basis of these paragraphs and can for this purpose delegate officials to the schools and student hostels. Should shortcomings be observed, the Governor can be instructed (Art 20 para 1) to redress the shortcomings within an appropriate deadline. The Governor must see to the redress of the shortcomings according to the statutory provisions and, to effect the execution of such instructions, is bound also to employ the means at his disposal in his capacity as an authority acting on behalf of the Land in its autonomous sphere of competence.
- 9. The general rules in Arts. 10 and 21 as to the distribution of competences for legislation and execution regarding conditions of service with the Federation, the Laender, the municipalities and the municipal associations apply in respect of the service code for teachers, educational assistants and kindergarten teachers, save as provided otherwise by the preceding paragraphs. The same applies to the staff representation rights of teachers, educational assistants, and kindergarten teachers.
- 10. In matters pertaining to the free attendance of schools, and the relationship between school and the Churches (religious societies) including religious instruction at school, the National Council, in so far as matters pertaining to universities and colleges are not concerned, can vote Federal legislation only in the presence of at least half the members and by a two thirds majority of the votes cast. The same applies if the principles of para 6a shall be left aside and to the ratification of state treaties negotiated in the matters mentioned above and which fall into the category specified in Art 50.
- 11. (Note: Repealed by Art I subpara 2 BVG, F. L. G. No. 316/1975)

- Compulsory education

- Supermajority required for legislation

## Art 14a

- 1. Save as provided otherwise in the following paragraphs, legislation and execution are the business of the Laender with regard to agricultural and forestry schooling as well as with regard to agricultural and forestry education in matters pertaining to student hostels and in matters pertaining to the service code for and staff representation rights of teachers and educational assistants at the schools and student hostels falling under this Article. Matters pertaining to college and university training do not fall under agricultural and forestry schooling.
- 2. Legislation and execution is the business of the Federation in the following matters:
  - a. secondary agricultural and forestry schools and schools for the training and supplementary training of teachers at agricultural and forestry schools;
  - b. technical colleges for the training of forestry employees;
  - c. public agricultural and forestry technical colleges linked organizationally to one of the public schools mentioned in subparas a and b above or to a Federal agricultural and forestry research institute to ensure provision of the demonstrations scheduled in the curricula;
  - d. student hostels exclusively or mainly designated for pupils of the schools mentioned in subparas a to c above;
  - e. service code for and staff representational rights of the teachers and educational assistants in the establishments mentioned in subparas a to d above;
  - f. subsidies for staff expenditure of the denominational agricultural and forestry schools;
  - g. Federal agricultural and forestry institutes linked organizationally to an agricultural and forestry school supported by the Federation to ensure provision of the demonstrations scheduled in the curricula of these schools.

- Subsidiary unit government

3. Save as it concerns matters mentioned in para 2 above, legislation is the business of the Federation, execution the business of the Laender in matters of
  - a. religious instruction;
  - b. the service code for and staff representation rights of teachers at public agricultural and forestry vocational schools and technical colleges and of educational assistants at publicly maintained student hostels exclusively or mainly designated for pupils of these schools, excepting however matters of official competence for the exercise of the service prerogative over these teachers and educational assistants.

Land legislatures can be authorized in Federal laws promulgated by reason of the provisions under subpara b above to issue implementing provisions for individual regulations which shall be precisely specified; in this connection the provisions of Art 15 para 6 apply analogously. Enabling ordinances for the Federal laws shall, save as otherwise provided there, be issued by the Federation.

4. Legislation as regards principles is the business of the Federation, the issue of implementing laws and execution is the business of the Laender
  - a. as regards the agricultural and forestry vocational schools in matters pertaining to definitions of the instructional objective, the obligatory subjects, and free tuition as well as in matters pertaining to compulsory schooling and the transfer from the school in one Land to the school in another Land;
  - b. as regards the agricultural and forestry technical colleges in matters pertaining to the definition of admission prerequisites, instructional objective, organizational forms, extent of the teaching and obligatory subjects, free tuition, and the transfer from the school in one Land to the school in another Land;
  - c. in matters pertaining to the public status of private agricultural and forestry vocational schools and training colleges with the exception of schools falling under para 2 subpara b above;
  - d. as regards the organization and competence of advisory boards who in the matters pertaining to para 1 above participate in the execution by the Laender.
5. The establishment of the agricultural and forestry technical colleges and research institutes specified under para 2 subparas c and g above is only admissible if the Land government of the Land in which the vocational school resp. technical college is to have its location has agreed to the establishment. This agreement is not requisite if the establishment concerns an agricultural and forestry school which is to be organizationally linked to a school for the training and supplementary training of teachers and agricultural and forestry schools to ensure provision of the demonstrations scheduled in their curricula.
6. It lies within the competence of the Federation to see to the observance of the regulations issued by it in matters whose execution in accordance with paras 3 and 4 appertains to the Laender.
7. The provisions of Art 14 paras Abs. 5a, 6, 6a, 7, 7a and 9 analogously also hold good for the spheres specified
8. Art 14 para 10 holds good analogously.

## Art 14b

1. Legislation as regards matters of public tendering, to the extent not being subject to para 3, is the business of the Federation.
2. The execution in the matters of para 1 is
  1. Business of the Federation regarding
    - a. the award of contracts by the Federation;
    - b. the award of contracts by endowments, funds and institutions in the sense of Art 126b para 1;
    - c. the award of contracts by enterprises in the sense of Arts. 126b para 2, if the financial share or the influence of the Federation caused by other financial or other economic or organizational measures, is at least equal to the financial share or the influence of the Laender;
    - d. the award of contracts by self-governing bodies corporate established by Federal law;
    - e. the award of contracts by legal entities not mentioned in lit. a to d and subpara 2 lit. a to d;

2. 1. e.
  - aa. financed by the Federation, if the financial contribution of the Federation is at least equal to the one of the Laender;
  - bb. which regarding the management are subject to the control by the Federation, to the extent the award is not subject to sublit. aa or subpara 2 lit. e sublit. aa;
  - cc. whose administrative-, managing- or supervising bodies consist of members having been appointed by the Federation, if the Federation has appointed at least an equal number of members like the Laender, to the extent the award is not subject to sublit. aa or bb or subpara 2 lit. e sublit. aa or bb;
  - f. the joint award of contracts by the Federation and the Laender, to the extent not being subject to subpara 1 lit. f as well as the joint award of contracts by several Laender.
  - g. the award of contracts by legal entities not being named in lit a to f and subpara 2;
2. the business of the Laender regarding
  - a. the award of contracts by the Land, the municipalities and associations of municipalities;
  - b. the award of contracts by endowments, funds and institution in the sense of Art 127 para 1 and of Art 127 a para 1 and 8;
  - c. the award of contracts by enterprises in the sense of Art 126b para 2, to the extent it is not subject to subpara 1 lit c, as well as the award of contracts by enterprises in the sense of Art 127 para 3 and of Art 127a para 3 and 8;
  - d. the award of contracts by self-governing legal entities created by Laender law;
  - e. the award of contracts by legal entities not being named in subpara 1 lit. a to d and lit. a to d;
    - aa. being financed by the Land alone or jointly with the Federation or other Laender, to the extent not being subject to subpara 1 lit. e sublit. aa;
    - bb. which regarding its management are subject to the control by the Land, to the extent the award is not subject to subpara 1 lit. e sublit. aa or bb or sublit. aa;
    - cc. whose administrative-, managing- or supervisory bodies consist of members having been appointed by the Land to the extent, not being subject to subpara 1 lit. e sublit. aa to cc or sublit. aa or bb;
  - f. the joint award of contracts by the Federation and the Laender, to the extent not being subject to subpara 1 lit. f as well as the joint award of contracts by several Laender.

Municipalities, without regard to the number of its inhabitants, are deemed to be legal entities which in the sense of subpara 1 lit. b and c and of subpara 2 lit. b and c are subject to the jurisdiction of the public audit office. In the frame of subpara 1 lit. b, c, e and f tenderees in the sense of subpara 1 shall be allocated to the Federation and tenderees in the sense of subpara 2 to the respective Land. If according to subpara 2 lit. c, e or f several Laender are involved, the competence for the execution depends on the preponderance of the criterium which is or according to the respective litera (sublitera) of subpara 1 would be relevant for the delimitation of the competence for execution of the Federation from the one of the Laender, then from the seat of the tenderee, then from the focal location of the business activity of tenderee, then from the seat (main residence) of the awarding institution; if, however, the competence can thus not be determined, the participating Land is competent which at the time of the institution of the award procedure is or has most recently been chairing the Federal Council.

3. Business of the Laender is the legislation and execution in the matters of review in the frame of awarding of contracts by tenderees in the sense of para 2 subpara 2.
4. The Federation has to grant the Laender opportunity to participate in the preparation of draft bills in the matters of para 1. Federal laws under para 1 to be promulgated, governing matters whose execution is business of the Laender, may only be published upon approval of the Laender.
5. Execution ordinances to Federal laws under para 1 promulgated are to be issued by the Federation, to the extent these laws do not provide otherwise. Para 4 and

5. Art 42a are to be applied accordingly to such execution ordinances.
6. (Note: Repealed by F.L.G. I No. 51/2012)

## Art 15

- Subsidiary unit government

1. In so far as a matter is not expressly assigned by the Federal Constitution to the Federation for legislation or also execution, it remains within the Laender's autonomous sphere of competence.
2. In matters of local public security administration, that is that part of public security administration which exclusively or preponderantly affects the interests of the local community personified by the municipality and which, like preservation of public decency and defence against the improper creation of noise, can suitably be undertaken by the community within its local boundaries, the Federation has authority to supervise the conduct of these matters by the municipality and to redress any observed shortcomings by instructions to the Governor (Art 103). Inspectoral authorities of the Federation can for this purpose be delegated to the municipality; in each and every case the Governor shall be informed hereof.
3. The provisions of Laender legislation in matters pertaining to theatres and cinemas, public shows, performances and entertainments shall assign, for areas of a municipality, in which the police directorate of a land simultaneously is security authority of first instance, to the police directorate of the Land, to the at least the superintendence of the events, in so far as this does not extend to technical operation, building police and fire police considerations, and the participation by the administration in the initial stage of grant of licences as stipulated by such legislation.
4. To what extent executive responsibility matters in the domain of the road police, except the local traffic police (Art 118 para 3 subpara 4) and the river and navigation police on the Danube, Lake Constance, Lake Neusiedl, and boundary stretches of other frontier waters, for areas of a municipality in which the police directorate of a Land simultaneously is security authority of first instance, shall be assigned to the police directorate of the Land, shall be prescribed in corresponding laws of the Federation and the Land concerned.
5. (Note: Repealed by F.L.G. I No. 51/2012)
6. In so far as only legislation as regards principles has been reserved to the Federation, detailed implementation within the framework laid down by Federal law is incumbent on Land legislatures. The Federal law can fix for the issue of the implementing legislation a deadline which may not, without the consent of the Federal Council, be shorter than six months and not longer than one year. If a Land does not observe this deadline, competence for the issue of the implementing legislation passes from that Land to the Federation. As soon as the Land has issued the implementing legislation, the Federation becomes invalidated. If the Federation has not established any principles, Land legislation is free to settle such matters. As soon as the Federation has established principles, the provisions of Land legislation shall within the deadline to be appointed by Federal law be adjusted to the legislation as regards the principle law.
7. (Note: Repealed by F.L.G. I No. 51/2012)
8. In matters reserved to Federal legislation in conformity with Arts. 11 and 12, the Federation is entitled to control the observance of the regulations it has issued.
9. Within the scope of their legislation Laender are authorized to make necessary provisions also in the field of criminal and civil law to regulate a matter.
10. Land legislation which alters or settles along new lines the existent organization of the ordinary public administration in the Laender, may only be promulgated with the consent of the Federal Government. In such Land legislation cross-district border cooperation of district administrative authorities including towns with own charter (Article 116 para 3) especially also the transfer of competence of authorities may be provided,
  1. if it concerns procedures, which are not frequent and require a high extent of expertise, or
  2. in order to facilitate the handling of competences out of office hours for the general public

## Art 15a

1. The Federation and the Laender may conclude agreements among themselves about matters within their respective sphere of competence. The conclusion of such agreements in the name of the Federation is, depending on the subject, incumbent on the Federal Government or the Federal Ministers. Agreements which are to be binding also on the authorities of the Federal legislature can be concluded by the Federal Government only with the approval of the National Council. Art 50 para 3 shall by analogy be applied to such resolutions of the National Council; they shall be published in the Federal Law Gazette.
2. Agreements between the Laender can only be made about matters pertaining to their autonomous sphere of competence and must without delay be brought to the Federal Government's knowledge.
3. The principles of international law concerning treaties shall apply to agreements within the meaning of para 1 above. The same holds good for agreements within the meaning of para 2 above save as provided otherwise by corresponding constitutional laws of the Laender in question.

- International law

- International law
- Treaty ratification

## Art 16

1. In matters within their own sphere of competence the Laender can conclude treaties with states, or their constituent states, bordering on Austria.
2. The Governor must inform the Federal Government before the initiation of negotiations about such a treaty. The Federal Government's approval must be obtained by the Governor before their conclusion. The approval is deemed to have been given if the Federal Government has not within eight weeks from the day that the request for approval has reached the Federal Chancellery told the Governor that approval is withheld. The authorization to initiate negotiations and to conclude the treaty is incumbent on the Federal President after the recommendation of the Land Government and with the countersignature of the Governor.
3. Treaties concluded by a Land in accordance with para 1 above shall be revoked upon request by the Federal Government. If a Land does not duly comply with this obligation, competence in the matter passes to the Federation.
4. The Laender are bound to take measures which within their autonomous sphere of competence become necessary for the implementation of international treaties; should a Land fail to comply punctually with this obligation, competence for such measures, in particular for the issue of the necessary laws, passes to the Federation. A measure taken by the Federation pursuant to this provision, in particular the issue of such a law or the issue of such an ordinance becomes invalid as soon as the Land has taken the requisite action.
5. In the same way the Federation is in the case of implementation of state treaties entitled to supervision also in such matters as belong to the Laenders' own sphere of competence. The powers vested in the Federation as against the Laender are in this instance the same as in matters pertaining to indirect Federal administration (Art 102).
6. (Note: Repealed by F. L. G. No. 1013/1994)

## Art 17

The provisions of Arts. 10 to 15 with regard to competence of legislation and execution in no way affect the position of the Federation and the Laender as the holders of civil rights.

- Head of state decree power

## Art 18

1. The entire public administration shall be based on law.
2. Every administrative authority can on the basis of law issue ordinances within its sphere of competence.
3. If the immediate issue of measures, which require, in accordance with the Constitution, a resolution by the National Council, becomes necessary to prevent obvious and irreparable damage to the community at a time when the National Council is not assembled, cannot meet in time, or is impeded from action by events beyond its control, the Federal President can at the recommendation of the Federal Government and on his and their responsibility take these measures

3. by way of provisional law amending ordinances. The Federal Government must present its recommendation with the consent of the Standing Sub-Committee to be appointed by the Main Committee of the National Council (Article 55, para 2). Such an ordinance requires the countersignature of the Federal Government.
4. Every ordinance issued in accordance with para 3 above shall without delay be submitted by the Federal Government to the National Council which if it is not in session at this time shall be convened by the Federal President, but if it is in session by the President of the National Council on one of the eight days following the submission. Within four weeks of the submission the National Council must either vote a corresponding Federal law in place of the ordinance or pass a resolution demanding that the ordinance immediately become invalidated. In the latter case the Federal Government must immediately meet this demand. In order that the resolution of the National Council may be adopted in time, the President shall at the latest submit the motion to the vote on the last day but one before expiry of the four weeks deadline; detailed provisions shall be made in the Federal law on the National Council's Standing Orders. If the ordinance is, in accordance with the previous provisions, rescinded by the Federal Government, the legal provisions which had been invalidated by the ordinance become effective again on the day of entry into force of the rescission.
5. The ordinances specified in para 3 above may not contain an amendment to provisions of Federal constitutional law and may have for their subject neither a permanent financial burden on the Federation nor a financial burden on the Laender or municipalities nor financial commitments for citizens nor an alienation of federal assets nor measures pertaining to matters specified in Art 10 para 1 subpara 11 nor, finally, such as concern the right of collective association or rent protection.

- Name/structure of executive(s)

## Art 19

1. The highest executive authorities are the Federal President, the Federal Ministers and the State Secretaries, and the members of the Land Governments.
2. The admissibility of activities in the private sector of the economy by the authorities specified in para 1 above and other public functionaries can be restricted by Federal law.

## Art 20

1. Under the direction of the highest authorities of the Federation and the Laender elected functionaries, appointed professional functionaries or contractually appointed functionaries conduct the administration in accordance with the provisions of the laws. They are responsible to their superiors for the exercise of their office and, save as provided otherwise by laws pursuant to para 2, bound by the instructions of these. The subordinate officer can refuse compliance with an instruction if the instruction was given by an authority not competent in the matter or compliance would infringe the criminal code.
2. By law functionaries may
  1. for expert review,
  2. to control the legality of the administration,
  3. with arbitration-, mediation- and representation of interests agenda,
  4. to safeguard competition and implement economic inspection,
  5. to supervise and regulate electronic media and to support the media,
  6. to implement certain matters of service- and disciplinary rules,
  7. to implement and organize elections, or,
  8. to the extent necessary according to the law of the European Union,

be dispensed from being bound by instructions of their superior functionaries. Laender constitutional laws may create further categories of functionaries being dispensed from instructions. By law a right of supervision of the highest authorities adequate to the task of the functionaries being dispensed from instructions is to be provided, at least the right of information about all acts of the activity of the functionary being dispensed from instructions and - to the extent the organs are not subject to subpara 2, 5 and 8 - the right to remove functionaries dispensed from instruction from office.

3. All functionaries entrusted with Federal, Laender and municipal administrative duties as well as the functionaries of other public law corporate bodies are, save



3. as otherwise provided by law, pledged to confidentiality about all facts of which they have obtained knowledge exclusively from their official activity and which have to be kept confidential in the interest of the maintenance of public peace, order and security, of comprehensive national defence, of external relations, in the interest of a public law corporate body, for the preparation of a ruling or in the preponderant interest of the parties involved (official confidentiality). Official secrecy does not exist for functionaries appointed by a popular representative body if it expressly asks for such information.
4. All functionaries entrusted with Federation, Laender and municipal administrative duties as well as the functionaries of other public law corporate bodies shall impart information about matters pertaining to their sphere of competence in so far as this does not conflict with a legal obligation to maintain confidentiality; an onus on professional associations to supply information extends only to members of their respective organizations and this inasmuch as fulfilment of their statutory functions is not impeded. The detailed regulations are, as regards the Federal authorities and the self-administration to be settled by Federal law in respect of legislation and execution, the business of the Federation; as regards the Laender and municipal authorities and the self-administration to be settled by Land law in respect of framework legislation, they are the business of the Federation while the implemental legislation and execution are Land business.

- Right to information

## Art 21

1. Legislation and execution in matters pertaining to the service code, including the regulations on service contracts, for and staff representation rights of employees of the Laender, the municipalities, and the municipal associations are, save as provided otherwise in the case of all these matters by para 2 below, by Art 14 para 2 and para 3 subpara d and para 5 subpara c and Art 14a para 2 subpara e and para 3 subpara b incumbent on the Laender. Disputes arising from contractual employment are settled by the courts of justice.
2. Legislation and execution in matters pertaining to employee protection for functionaries (para 1) and to staff representation of Laender functionaries, in so far as they are not engaged in enterprises, are incumbent on the Laender. In so far as in accordance with the first sentence the Laender are not competent, the aforementioned matters fall within the competence of the Federation.
3. Save as provided otherwise by this law, the service prerogative with regard to employees of the Federation is exercised by the highest authorities of the Federation. The service prerogative with regard to employees of the Laender is exercised by the highest authorities of the Laender; in so far as this law provides for appropriate exceptions with regard to employees of the Federation, it may be laid down by Land constitutional law that the service prerogative with regard to employees of the Land is exercised by equivalent authorities.
4. The possibility of an alternation of service between the Federation, the Laender, the municipalities, and the municipal associations remains guaranteed at all times to public employees. Legal provisions, according to which times of service are taken into account differently depending on whether they were served with the Federation, a Land, a municipality- or a municipal association, are inadmissible. In order to enable the service code, the staff representation regulations and the employee protection scheme of the Federation, the Laender, and the municipalities to develop along equal lines, the Federation and the Laender shall inform each other about their plans in these matters.
5. Legislation can provide that
  1. civil servants are appointed temporarily for the performance of particular directorial functions or in cases where due to the nature of the duty this is necessary;
  2. after expiry of the temporary term or upon change in the organization of the authorities or of the service code structures by law no appointment is necessary;
  3. no appointment is necessary in cases of a transfer or a change in the employment in so far as competence for the appointment is assigned pursuant to Art 66 para 1.
6. In the cases of para 5 no one is entitled to an equal position.

## Art 22

All authorities of the Federation, the Laender, the municipalities and the municipality associations as well as the other self-administrating entities are bound within the framework of their legal sphere of competence to render each other mutual assistance.

- Ultra-vires administrative actions

## Art 23

1. The Federation, the Laender, the municipalities and the other bodies and institutions established under public law are liable for the injury which persons acting on their behalf in execution of the laws have by illegal behaviour culpably inflicted on whomsoever.
2. Persons acting on behalf of one of the legal entities specified in para 1 above are liable to it, in so far as intent or gross negligence can be laid to their charge, for the injury for which the legal entity has indemnified the injured party.
3. Persons acting on behalf of one of the legal entities specified in para 1 above are liable for the injury which in execution of the laws they have by illegal behaviour inflicted directly on the legal entity.
4. The detailed provisions with respect to paras 1 to 3 above will be made by Federal law.
5. A Federal law can also provide to what extent special provisions deviating from the principles laid down in paras 1 to 3 above apply in the field of the postal and telecommunication systems.

- Telecommunications

- Regional group(s)
- International organizations

## B. European Union

### Art 23a

1. The members of the European Parliament shall in Austria be elected in accordance with the principles of proportional representation on the basis of equal, direct, personal, free and secret suffrage be men and women who have completed their sixteenth year of life on the day of election and on the day appointed for election are either endowed with Austrian nationality and not excluded from suffrage under the provisos of European Union law or endowed with the nationality of another member state of the European Union and qualified to vote under the provisos of European Union Law.
2. Federal territory constitutes for elections to the European Parliament a single electoral body.
3. Eligible for election are all those in Austria entitled to vote for the European Parliament having completed their eighteenth year of life on the day of election.
4. Art 26 para 5 to 8 is to be applied accordingly.
5. (Note: Repealed by F.L.G. I No. 27/2007)
6. (Note: Repealed by F.L.G. I No. 27/2007)

- Secret ballot
- Restrictions on voting

### Art 23b

1. Public employees who seek a seat in the European Parliament shall be granted the time necessary for the canvassing of votes. Public employees who have been elected to membership of the European Parliament shall for the duration of their duties be suspended from office accompanied by loss of their emoluments. The detailed provisions will be settled by law.
2. University teachers can continue their activity in research and teaching and their examination activity also while they belong to the European Parliament. The emoluments for such activity shall be calculated in accordance with the services actually performed, but may not exceed twenty-five per cent of a university teacher's salary.
3. In so far as this Federal constitutional law stipulates the incompatibility of functions with membership or former membership of the National Council, these functions shall also be incompatible with membership or former membership of the European Parliament.

## Art 23c

1. The making of the Austrian presentations for the nomination of members of the European Commission, of members of the Court of Justice, the European Union, of members of the Court of Auditors, of members of the Economic and Social Committee, of members of the Committee of Regions and their deputies and of members of the managing Committee of the European Investment bank is incumbent upon the Federal Government.
2. Before making the presentations for the nomination of members of the European Commission, the Court of Justice, the Court of Auditors and the Managing Committee of the European Investment Bank the Federal Government has to inform the national council and the Federal President whom it intends to present. The Federal government shall reach agreement with the main committee of the National Council.
3. Before making the presentations for the nomination of members of the Economic and Social Committee the Federal Government shall seek proposals from the statutory and other professional bodies of the various groups constituting the economic and social community.
4. The presentations for the nomination of members of the Committee of Regions and their deputies shall be made by the Federal Government on the basis of presentations from the Laender as well as from the Austrian Association of Municipalities and the Austrian Communal Association. Each Land is to present a member and its deputy; the other members and their deputies are to be presented by the Austrian Municipal Association and the Austrian Communal Association.
5. The Federal Government shall inform the National Council whom it named pursuant to paras 3 and 4 and the Federal Council whom it named pursuant to paras 2, 3 and 4.

## Art 23d

1. The Federation must inform the Laender without delay regarding all projects within the framework of the European Union which affect the Laender's autonomous sphere of competence or could otherwise be of interest to them and it must allow them opportunity to present their views within a reasonable interval to be fixed by the Federation. Such comments shall be addressed to the Federal Chancellery. The same holds good for the municipalities in so far as their own sphere of competence or other important interests of the municipalities are affected. Representation of the municipalities is in these matters incumbent on the Austrian Association of Cities and Towns (Austrian Municipal Federation) and the Austrian Association of municipalities (Austrian Communal Federation) (Art 115 para 3).
2. If the Laender have presented a uniform comment on a project concerning matters where legislation is Land business, the Federation may in negotiations with and voting in the European Union only deviate from the uniform comment for compelling integration and foreign policy reasons. The Federation must advise the Laender of these reasons without delay.
3. If a project affects also matters where legislation is Laender business, the Federal Government can assign the right to participate in the meetings of the Council and in such frame to negotiate the project and cast a vote, to a member of a Land Government having been nominated by one of the Laender. The exercise of this authority through the representative of the Laender will be effected in cooperation and in coordination with the competent federal minister; para 2 also applies to him. In matters pertaining to Federal legislation the Laender representative is responsible to the National Council, in matters pertaining to Land legislation to the Land legislatures in accordance in respect with Art 142.
4. The more detailed provisions in respect of paras 1 to 3 above shall be established in an agreement between the Federation and the Laender (Art 15a para 1).
5. The Laender are bound to take measures which, within their autonomous sphere of competence, become necessary for the implementation of juridical acts within the framework of European integration; should a Land fail to comply punctually with this obligation and this be established against Austria by a court within the framework of the European Union, the competence for such measures, in particular the issuance of the necessary laws, passes to the Federation. A

5. measure taken by the Federation pursuant to this provision, in particular the issue of such a law or the issue of such an ordinance, becomes invalid as soon as the Land has taken the requisite action.

### Art 23e

1. The competent Federal Minister shall without delay inform the National Council and the Federal Council about all projects within the framework of the European Union and afford them opportunity to vent their opinion.
2. The competent Federal Minister has to inform the National Council and the Federal Council expressly and timely on an upcoming resolution of the European Council or the Council concerning
  1. the change from unanimity to a qualified majority or
  2. the change from a special legislation procedure to the regular legislation procedure

so that the National Council and the Federal Council are able to act within their competences according to this article.

3. If the National Council has presented comments to a project aimed at passing a legal act which would affect the passing of Federal Acts in the field governed by the legal act, the competent Federal Minister may deviate in negotiations and votings in the European Union from such comment only for deviating integrating and foreign political reasons. If the competent Federal Minister intends to deviate from the comment of the National Council he has to contact the national Council again. If the project is aimed at passing a binding legal act which either requires the passing of Federal Constitutional regulations or contains rules which can only be passed by such regulations, such deviation is only admissible if the National Council does not object within adequate time. The competent Federal Minister has to report to the National Council immediately after the voting in the European Union and eventually name the reasons, for which he deviated from the comment.
4. If the Federal Council has presented comments to a project aimed at passing a binding legal act which either requires the passing of Federal Constitutional regulations limiting the competence of the Laender in legislation and executive powers according to article 44 para 2, or contains regulations which can only be passed by such regulations, the competent Federal Minister may deviate from such comment in negotiations or voting in the European Union only for compelling international and foreign political reasons. A deviation however is only admissible if the Federal Council does not object within adequate time. The competent Federal Minister has to report to the Federal Council immediately after the voting in the European Union and to eventually name the reasons for which he deviated from such comment.

### Art 23f

1. The National Council and the Federal Council exert the competences as provided in the contract on the European Union, in the contract on the working style of the European Union and the protocols attached to these contracts, as amended, of the National Parliaments.
2. Any Federal Minister reports to the National Council and the Federal Council at the beginning of each year on the projects of the Council and the European Commission to be expected in this year and also on the Austrian position to such projects to be expected.
3. Further duties of information are to be determined by Federal Act.
4. The National Council and the Federal Council may express their wishes on projects of the European Union in comments to the organs of the European Union.

### Art 23g

1. The National Council and the Federal Council present their view in a founded comment to a drafted legal act in the frame of the European Union, for which reason the draft is incompatible with the subsidiarity principle.
2. The National Council and the Federal Council can ask the competent Federal Minister to make a statement on the compatibility of drafts according to para 1

2. with the subsidiarity principle, which, in general, has to be presented within two weeks after the request has been served.
3. The Federal Council is to inform the Laender Parliaments immediately on all drafts according to para 1 and give them the opportunity to make comments. When resolving a founded statement according to para 1, the Federal Council has to consider the comments of the Laender Parliaments and to inform them on such resolutions.

### Art 23h

1. The National Council and the Federal Council may resolve to raise claim against a legal act in the frame of the European Union at the Court of the European Union for violating the subsidiarity principle.
2. The office of the Federal Chancellor sends the claim in the name of the National Council or the Federal Council immediately to the Court of the European Union.

### Art 23i

1. The Austrian member in the European Council may agree to an initiative according to article 8 para 7 of the Treaty on the European Union as amended by the Lisbon agreement only having been authorized by the National Council, with the approval of the Federal Council, on the basis of a proposal of the Federal Government. Such resolutions of the National Council and the Federal Council each require the presence of at least of the half of the number of members and a majority of two thirds of the votes cast.
2. To the extent the law of the European Union for the National Parliaments provides the possibility of the refusal of an initiative or a proposal concerning
  1. the change from unanimity to a qualified majority or
  2. the change from a special legislation procedure to the regular legislation procedure,

the National Council, with the approval of the Federal Council, may refuse such initiative or proposal within the terms provided by the law of the European Union.

3. Resolutions of the Council by which new categories of own means of the European Union shall be introduced, require the authorization by the National Council and the approval of the Federal Council; article 50 para 4 second phrase is to be applied accordingly. Other resolutions of the Council determining regulations on the system of own means of the European Union require the approval by the National Council. Article 23e para 2 is to be applied accordingly.
4. Article 50 para 4 is to be applied accordingly to other resolutions of the European Council or the Council, which enter into force according to the law of the European Union only after approval by the member states in accordance with their respective constitutional rules.
5. Resolutions of the National Council and of the Federal Council under this article are to be published by the Federal Chancellor in the Federal Law Gazette.

### Art 23j

1. Austria participates in the Common Foreign and Security Policy of the European Union on the basis of Title V chapter 1 and 2 of the Treaty on the European Union, as amended by the Lisbon-agreement, which provides in article 3 para 5 and in article 21 para 1 especially the observance of resp. respect for the principles of the charter of the United Nations. This includes the participation in duties according to article 43 para 1 of this contract and in measures by which the economic and financial relations to one or several third countries are suspended, restricted or completely severed. Article 50 para 4 is to be applied accordingly to resolutions of the European council concerning a common defence.
2. Article 23e para 3 is to be applied accordingly to resolutions in the frame of the Common Foreign and Security Policy of the European Union on the basis of Title V chapter 2 of the contract on the European Union as amended by the Lisbon-agreement.
3. The right of vote concerning resolutions on the start of a mission out of the European Union, the tasks of military consultation and support, tasks of conflict prevention and maintaining peace or combat operations in the frame of crisis management, including peacemaking measures and operations to stabilize the

• International law

• International law

3. situation after conflicts, as well as on decisions under Art 42 para 2 of the Treaty on the European Union, as amended by the Treaty of Lisbon concerning the step by step determination of a joint defence policy, is to be exerted by coordination between the Federal Chancellor and the Minister competent for Foreign Relations.
4. If the decision to be adopted is likely to entail an obligation for Austria to dispatch units or individual persons, measures to be taken in accordance with para 3 may be approved only with the reservation that this still requires the conduct of the procedure provided for under constitutional law governing the dispatch of units or individual persons to other countries.

### Art 23k

1. More detailed provisions regarding article 23e, 23f para 1, 2 and 4 as well as 23g to 23j are made by federal act on the standing order of the National Council and the standing order of the Federal Council.
2. The competences of the National Council under articles 23e, 23f para 4, 23g and 23j para 2 are incumbent on its Main Committee. The Federal Law on the standing order of the National Council may provide, that the main committee elects a permanent subcommittee, to which article 55 para 3 applies accordingly. The main committee may confer competences to this permanent subcommittee under to the first phrase. Such transfer can be revoked completely or partially any time. By the Federal Law t on the standing order of the National Council competences of the main committee may be transferred under the first phrase to the National Council or to the permanent subcommittee of the main council according to the second phrase.
3. Competences of the Federal Council under articles 23e, 23f, para 4 and 23g may be transferred by the standing order of the Federal Council to a committee it has to elect.

- Legislative committees

## Chapter II. Federal Legislation

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### A. The National Council

#### Art 24

The legislative power of the Federation is exercised by the National Council jointly with the Federal Council.

#### Art 25

1. The seat of the National Council is Vienna, the Federal capital.
2. For the duration of extraordinary circumstances the Federal President can at the request of the Federal Government convoke the National Council elsewhere within the Federal territory.

#### Art 26

1. The National Council is elected by the Federal people in accordance with the principles of proportional representation on the basis of equal, direct, personal, free and secret suffrage by men and women who have completed their sixteenth year of life on the day of election.
2. The Federal territory will be divided into self-contained constituencies whose boundaries may not overlap the Laender boundaries; these constituencies shall be sub-divided into self-contained regional constituencies. The number of deputies will be divided among the qualified voters of the constituencies (electoral bodies) in proportion to the number of nationals who in accordance with the result of the last census had their principal domicile in a particular constituency plus the number of those who on the day of the census did not have their principal domicile in Federal territory, but were entered on the electoral register of a municipality pertaining to that particular constituency; the number

- Claim of universal suffrage
- Secret ballot
- First chamber selection
- Restrictions on voting
- Electoral districts
- First chamber selection

- Electoral commission
- Scheduling of elections

- Eligibility for first chamber
- Eligibility for head of government
- Minimum age of head of government
- Eligibility for cabinet
- Minimum age for first chamber
- Eligibility for head of state

- First chamber selection
- Electoral commission
- International organizations

2. of deputies allocated to a constituency will be divided in the same way among the regional constituencies. The National Council electoral regulations shall provide for a final distribution procedure relating to the whole Federal territory whereby in accordance with the principles of proportional representation which ensures a balance between the seats allocated to the parties standing for election in the constituencies and the distribution of the as yet unallocated seats. A division of the electorate into other electoral bodies is not admissible.
3. The day of election must be a Sunday or a statutory holiday. If other circumstances arise that impede the start, the continuation or the conclusion of the election, the electoral board can prolong to the next day or adjourn the election
4. Eligible for election are those being entitled to vote for the National Council, who are in the possession of the Austrian nationality on the keydate and have completed their eighteenth year of life on the day of election.
5. Exclusion from the right to vote or eligibility, also to respectively varying extent may only be provided by Federal Law as consequence of a final sentence by the courts.
6. Persons entitled to vote presumably prevented on the day of election to cast their vote before the electoral authority, for example for absence, for reasons of health or staying abroad may make use of their right to vote by postal ballot upon application indicating the reason. The identity of the applicant is to be proven prima facie. The qualified voter has to declare by signature in lieu of oath, that the vote has been cast personally and confidentially.
7. The electoral register will be drawn up by the municipalities as part of their assigned sphere of competence.
8. Further details of the electoral procedure are determined by Federal law.

## Art 26a

The implementation and organization of the elections to the European Parliament, the National Council, the Federal President and of referenda and plebiscites as well as the participation in the control of popular initiatives, consultations of the people as well as the participation in the implementation of European citizens' action groups is incumbent to election authorities being constituted anew before each election to the National Council. Members of the campaigning parties have to sit in the election authority, as committee members, having a vote, in the Federal election authority also active or retired judges; the number of committee members is to be determined in the election rules to the National Council. The members not being judges shall be appointed on the basis of proposals of the campaigning parties corresponding to their proportion in the preceding election to the National Council. Parties represented in the recently elected National Council not being entitled to the appointment of committee members are however entitled to propose a committee member for the Federal election authority.

## Art 27

- Term length for first chamber

1. The legislative period of the National Council lasts five years, calculated from the day of its first meeting, but in any case until the day on which the new National Council meets.
2. The newly elected National Council shall be convened by the Federal President within thirty days after the election. The latter shall be so arranged by the Federal Government as to enable the newly elected National Council to meet on the day after the expiry of the fifth year of the legislative period.

## Art 28

- Length of legislative sessions
- Extraordinary legislative sessions

1. The Federal President convokes the National Council each year for an ordinary session which shall not begin before 15 September and not last longer than 15 July the following year.
2. The Federal President can also convoke the National Council for extraordinary sessions. If the Federal Government or at least one third of the members of the National- or the Federal Council so demands, the Federal President is bound to convoke the National Council for an extraordinary session to meet moreover within two weeks of the demand reaching him; the convocation needs no countersignature. A request by members of the National Council or by the Federal Council does not require a recommendation by the Federal Government.

3. The Federal President declares sessions of the National Council closed in pursuance of a vote by the National Council.
4. Upon the opening of a new National Council session within the same legislative period work will be continued in accordance with the stage reached at the close of the last session. At the end of a session individual committees can be instructed by the National Council to continue their work. From the beginning of a legislative period popular initiatives and citizens' initiatives submitted to the National Council are regarded as business for the newly elected National Council. The Federal law on the National Council's Standing Orders can determine the same for further business.
5. During a session the President of the National Council convokes the individual sittings. If during a session the number of members stipulated by the Federal law on the National Council's Standing Orders or the Federal Government so demands, the President is bound to convoke a sitting. More detailed provisions are settled by the Federal law on the National Council's Standing Orders which shall also prescribe a period within which the National Council must convene.
6. The Federal law on the National Council's Standing Orders shall lay down special provisions for its convocation in the event of the elected President's being precluded from the performance of their office or being deprived of their functions.

- Dismissal of the legislature

### Art 29

1. The Federal President can dissolve the National Council, but he may avail himself of this prerogative only once for the same reason. In such case the new election shall be so arranged by the Federal Government that the newly elected National Council can at the latest meet on the hundredth day after the dissolution.
2. Before expiry of a legislative period the National Council can vote its own dissolution by simple law.
3. After a dissolution pursuant to para 2 above as well as after expiry of the period for which the National Council has been elected, the legislative period lasts until the day on which the newly elected National Council meets.

### Art 30

- Leader of first chamber
- Supermajority required for legislation

1. The National Council elects the President, the Second and Third Presidents from among its members.
2. The business of the National Council is conducted in pursuance of a special Federal law. The Federal law on the National Council's Standing Orders can only be passed in the presence of half the members and by a two thirds majority of the votes cast.
3. The Parliamentary Staff, which is subordinate to the President of the National Council, is competent for the assistance with Parliamentary tasks and the conduct of administrative matters within the scope of the authorities of the Federation's legislature as well as of similar tasks and administrative matters concerning the members of the European Parliament having been elected in Austria. The internal organization of the Parliamentary staff for matters pertaining to the Federal Council shall be settled in agreement with the Chairman of the Federal Council who is likewise invested with authority to issue instructions as to implementation of the functions assigned to the Federal Council on the basis of the law.
4. The nomination of Parliamentary Staff employees and all other competences in personnel matters lie with the President of the National Council.
5. The President of the National Council can second Parliamentary Staff employees to parliamentary parties for help in the fulfillment of parliamentary duties.
6. The President of the National Council is the highest administrative authority in the execution of the administrative matters for which he is in accordance with this Article competent and he exercises these powers in his own right. He may issue ordinances inasmuch as these exclusively concern administrative matters regulated by this Article.

- Quorum for legislative sessions

### Art 31

Save as otherwise provided in this law or as otherwise laid down in the Federal law on the Standing Orders with regard to individual matters, the presence of at least one third



of the members and an absolute majority of the votes cast is requisite to a vote by the National Council.

- Public or private sessions

### Art 32

1. The sessions of the National Council are public.
2. The public shall be excluded if the Chairman or the number of members established in the Federal law on the National Council's Standing Orders so demands and the National Council votes this after the withdrawal of the audience.

- Publication of deliberations

### Art 33

No one shall be called to account for publishing the accounts of proceedings in the public sessions of the National Council and its committees.

## B. The Federal Council

- Second chamber selection

### Art 34

1. Pursuant to the following provisions, the Laender are represented in the Federal Council in proportion to the number of nationals in each Land.
2. The Land with the largest number of citizens delegates twelve members, every other Land as many as the ratio in which its nationals stand to those in the first-mentioned Land, with remainders which exceed half the coefficient counting as full. Every Land is however entitled to a representation of at least three members. A substitute will be appointed for each member.
3. The number of members to be delegated by each Land accordingly will be laid down after every general census by the Federal President.

- Replacement of legislators
- Size of second chamber

- Census
- Size of second chamber

### Art 35

1. The members of the Federal Council and their substitutes are elected by the Diets for the duration of their respective legislative periods in accordance with the principle of proportional representation but at least one seat must fall to the party having the second largest number of seats in a Diet or, should several parties have the same number of seats, the second highest number of votes at the last election to the Diet. When the claims of several parties are equal, the issue shall be decided by lot.
2. The members of the Federal Council need not belong to the Diet which delegates them; they must however be eligible for that Diet.
3. After expiry of the legislative period of a Diet or after its dissolution the members delegated by it to the Federal Council remain in office until such time as the new Diet has held the election to the Federal Council.
4. The provisions of Arts. 34 and 35 can only be amended -apart from the majority of votes requisite in general to the adoption of a resolution there -if in the Federal Council the majority of the representatives from at least four Laender has approved the amendment.

- Second chamber selection

- Eligibility for second chamber

### Art 36

1. The Laender succeed each other in alphabetical order every six months in the chairmanship of the Federal Council.
2. As chairman acts the top-listed representative of the Land designated for the chair, whose mandate goes to the party having the largest number of seats in the Diet or, if several parties have an equal number of seats, had the highest number of voters in the most recent Diet election; in case of equal entitlements of several parties the decision is made by lot. However, the Diet can resolve, that the chair shall be held by another representative of the Land, whose mandate in the Federal Council is with the same party; such resolution however requires the approval of the majority of those members of the Diet, whose mandates in the Diet are with this party. The appointment of the deputies of the chairman is governed by the Federal Council's Standing Orders. The chairman carries the

- Leader of second chamber

2. title "President of the Federal Council", his deputies carry the title "Vice-President of the Federal Council".
3. The Federal Council will be convoked by its Chairman at the seat of the National Council. The Chairman is bound immediately to convoke the Federal Council if at least one quarter of its members or if the Federal Government so demands.
4. The Governors are entitled to participate in all Federal Council proceedings. In accordance with the specific rules of the Federal Council's Standing Orders they have at their request always the right to be heard on business relating to their Land.

### Art 37

- Quorum for legislative sessions

1. Save as otherwise provided by this law or as otherwise laid down in the Federal Council's Standing Orders in regard to individual matters, the presence of at least one third of the members and an absolute majority of the votes cast is requisite for a resolution by the Federal Council.
2. The Federal Council furnishes itself with Standing Orders by way of resolution. This resolution can only be adopted in the presence of half the members with a two thirds majority of the votes cast. Provisions effectual also beyond the internal scope of the Federal Council can be made in the Standing Orders in so far as this is requisite for its handling of business. The Standing Orders have the status of a Federal law; they shall be published by the Federal Chancellor in the Federal Law Gazette.
3. The meetings of the Federal Council are public. Nevertheless the public can, pursuant to the provisions of the Standing Orders, be excluded by resolution. The provisions of Art 33 apply also to public meetings of the Federal Council and its committees.

- Public or private sessions

## C. The Federal Assembly

- Power to declare/approve war
- Joint meetings of legislative chambers

### Art 38

The National Council and the Federal Council meet as the Federal Assembly in joint public session at the seat of the National Council for the affirmation of the Federal President as well as for the adoption of a resolution on a declaration of war.

### Art 39

1. Apart from the cases stated in Art 60 para 6 Art 63 para 2, Art 64 para 4 and Art 68 para 2, the Federal Assembly is convoked by the Federal President. The chairmanship alternates between the President of the National Council and the Chairman of the Federal Council, beginning with the former.
2. The Federal Law on the National Council's Standing Orders is applied analogously in the Federal Assembly.
3. The provisions of Art 33 hold good also for the sessions of the Federal Assembly.

- Public or private sessions
- Head of government powers

### Art 40

1. The resolutions of the Federal Assembly are authenticated by its Chairman and countersigned by the Federal Chancellor.
2. The resolutions of the Federal Assembly upon a declaration of war shall be officially published by the Federal Chancellor.

- Power to declare/approve war

## D. Federal Legislative Procedure

- Initiation of general legislation

### Art 41

1. Legislative proposals are submitted to the National Council as motions by its members, by the Federal Council or by one third of the Federal Council's members, and as bills by the Federal Government.
2. Every motion by 100,000 voters or by one sixth each of the voters in three Laender (henceforth called "popular initiative") shall be submitted by the Federal electoral board to the National Council for action. The right to vote, as to popular initiatives, appertains to those who on the last day of registration for National

- Legislative initiatives by citizens
- Electoral commission
- Restrictions on voting

2. Council suffrage and have their principal domicile in a municipality in Federal territory. The popular initiative must concern a matter to be settled by Federal law and can be put forward in the form of a draft law.
3. The detailed provisions on the procedure for the popular initiative shall be made by Federal Law.

- Legislative initiatives by citizens
- Division of labor between chambers

## Art 42

1. Every enactment of the National Council shall without delay be conveyed by its President to the Federal Council.
2. Save as otherwise provided by constitutional law, an enactment can be authenticated and published only if the Federal Council has not raised a reasoned objection to this enactment.
3. This objection must be conveyed to the National Council in writing by the Chairman of the Federal Council within eight weeks of the enactment's arrival; the Federal Chancellor shall be informed thereof.
4. If the National Council in the presence of at least half its members once more carries its original resolution, this shall be authenticated and published. If the Federal Council resolves not to raise any objection or if no reasoned objection is raised within the deadline laid down in para 3 above, the enactment shall be authenticated and published.
5. The Federal Council has no claim to participation in so far as National Council enactments concern the National Council's Standing Orders, the dissolution of the National Council, a Federal Law providing detailed regulations on the making of the Federal finance frame law, the Federal finance law and on the household of the Federation a Federal finance law, a temporary provision consonant with Art 51a para 4 or a disposal of Federal property, the assumption or conversion of a Federal liability, the contraction or the conversion of a Federal monetary debt, the sanction of a final Federal budget account.

- Second chamber reserved policy areas
- First chamber reserved policy areas

- Subsidiary unit government

## Art 42a

To the extent an enactment of the National Council requires the approval of the Laender, it is to be notified by the Federal Chancellor according to Art 42 immediately after the procedure has been closed to the offices of the Laender governments of the Laender concerned. The approval is deemed to be granted if the Governor of the Land does not notify the Federal Chancellor within eight weeks after the day on which the enactment has been served to the office of the government of the land, that the approval is denied. Before expiration of this period the enactment may only be published if the Governors of the Laender concerned have notified the express approval by the Land.

- Referenda

## Art 43

If the National Council so resolves or if the majority of members of the National Council so demands, every enactment of the National Council shall be submitted to a referendum upon conclusion of the procedure pursuant to Art 42 resp. pursuant to Art 42a but before its authentication by the Federal President.

- Constitution amendment procedure

## Art 44

1. Constitutional laws or constitutional provisions contained in simple laws can be passed by the National Council only in the presence of at least half the members and by a two thirds majority of the votes cast; they shall be explicitly specified as such ("constitutional law", "constitutional provision").
2. Constitutional laws or constitutional provisions contained in simple laws restricting the competence of the Laender in legislation or execution require furthermore the approval of the Federal Council which must be imparted in the presence of at least half the members and by a two thirds majority of the votes cast.
3. Any total revision of the Federal Constitution shall upon conclusion of the procedure pursuant to Art 42 above but before its authentication by the Federal President be submitted to a referendum by the Federal people whereas any partial revision requires this only if one third of the members of the National Council or the Federal Council so demands.

- Referenda

## Art 45

1. For a referendum the absolute majority of the validly cast votes is decisive.
2. The result of a referendum shall be officially announced.

- Referenda

## Art 46

1. A referendum takes place at the order of the Federal President.
2. Entitled to vote in referenda is who possesses the suffrage to the National Council on the day of the referendum.
3. The detailed provisions on the procedure for the plebiscite shall be made by Federal Law. Art 26 para 6 is to be applied analogously.

- Restrictions on voting

## Art 47

1. The constitutional enactment of Federal laws is authenticated by the Federal President.
2. The submission for authentication is effected by the Federal Chancellor.
3. The authentication shall be countersigned by the Federal Chancellor.

## Art 48

Federal laws and state treaties having been approved according to Art 50 para 1 will be published with reference to their adoption by the National Council, Federal laws based upon a referendum with reference to the result of that referendum.

## Art 49

1. Federal laws shall be published by the Federal Chancellor in the Federal Law Gazette. Unless explicitly provided otherwise, their entry into force begins with expiry of the day of their publication and it extends to the entire Federal territory.
2. The state treaties according to Art 50 para 1 are to be published by the Federal Chancellor in the Federal Law Gazette. In case a state treaty according to Art 50 para 1 subpara 1 has been laid down in more than two languages authentically, it is sufficient if
  1. two authentic language versions and a translation into the German language,
  2. if, however, the German language version is authentic, such and a further authentic language version

- International law

are published. The National Council can on the occasion of the approval of state treaties pursuant to Art 50 para 1 resolve in which other way than in the Federal Law Gazette the publication of the state treaty or single parts exactly to be specified shall take place; such resolutions of the Federal Council are to be published by the Federal Chancellor in the Federal Law Gazette. Unless explicitly provided otherwise, state treaties according to Art 50 para 1 enter into force upon expiry of the day of its publication - in the case of the third phrase upon expiry of the date of proclamation of the resolution of the National Council - and extend to the entire Federal territory; this does not apply to state treaties to be implemented by passing laws (Art 50 para 2 subpara 4).

3. Announcements in the Federal Law Gazette and according to para 2 second phrase must be accessible to the general public and be ascertained completely and forever in the published form.
4. The detailed provisions on the proclamation on the Federal Law Gazette shall be made by Federal Law.

## Art 49a

1. The Federal Chancellor is empowered jointly with the competent Federal Ministers to restate Federal laws, with the exception of this Law, and treaties published in the Federal Law Gazette in their valid version by proclamation in the Federal Law Gazette.

2. In the proclamation on the republication
  1. obsolete terminological expressions can be rectified and outdated spelling assimilated to the new manner of writing;
  2. references to other regulations which no longer tally with current legislation as well as other inconsistencies can be rectified;
  3. provisions which have been nullified by later regulations or otherwise rendered void can be declared no longer valid;
  4. title abridgements and alphabetical abbreviations of titles can be laid down;
  5. the designations of articles, sections, paragraphs, and the like can in case of elimination or insertion be correspondingly altered and in this connection references thereto within the text of the regulation be appropriately rectified;
  6. interim provisions as well as earlier still applicable versions of the Federal law (state treaty) can by specification of their purview be summarized.
3. Unless explicitly provided otherwise republished Federal Law (the republished state treaty) and the other regulations contained in the proclamation enter into force upon expiry of the day of proclamation.

- Referenda

### Art 49b

1. A consultation of the people on a matter of fundamental and overall national importance for whose settlement the legislature is competent must take place if the National Council votes it by reason of a motion from its members or from the Federal Government. Elections and matters subject to a decision by a court or an administrative authority cannot be the topic of a consultation of the people.
2. A motion pursuant to para 1 above must include a proposal for the formulation of the question to be basically put in the consultation of the people. This must consist either of a question to be answered with "Yes" or "No" or of two alternative solution proposals.
3. Consultations of the people shall be implemented in a manner analogous to Arts. 45 and 46. The right to vote, as to consultations of the people, appertains to those who on the day appointed for consultation possess National Council suffrage. The Federal electoral board must submit the result of a consultation to the National Council and the Federal Government.

- Electoral commission

## E. Participation of the National Council and of the Federal Council in the Execution by the Federation

- Treaty ratification

### Art 50

1. The conclusion of
  1. Political state treaties and state treaties the contents of which modify or complement existent laws and do not fall under Art 16 para 1, as well as
  2. State treaties by which the contractual bases of the European Union are modified,

require the approval of the National Council.
2. To state treaties according to para 1 subpara 1 additionally the following applies:
  1. In case a state treaty provides its simplified modification such modification does not require approval according to para 1, unless the National Council has reserved such approval.
  2. To the extent a state treaty settles matters falling within the autonomous sphere of competence of the Laender it requires the approval by the Federal Council.
  3. In case a state treaty has been laid down authentically in more than two languages, it is sufficient, if the approval under para 1 is granted
    - a. on the basis of two authentic language versions and a translation into the German language,
    - b. if, however, the German language version is authentic, on the basis of such and a further authentic language version.
  4. At the time of approval of a state treaty, the National Council can resolve to which extent the treaty in question shall be implemented by the issue of laws.

3. Art 42 paras 1 to 4 inclusive shall be analogously applied to resolutions of the National Council in accordance with paras 1 subpara 1 and para 2 subpara 4 above.
4. Notwithstanding Art 44 para 3 state treaties according to para 1 subpara 2 may only be concluded with the approval of the National Council and the approval of the Federal Council. These resolutions each require the presence of at least half of its members and the majority of two thirds of the votes cast.
5. The National Council and the Federal Council are to be informed without delay on the beginning of negotiations of a state treaty according to para 1.

- International organizations

### Art 50a

The National Council participates in matters of the European Stability Mechanism.

- International organizations

### Art 50b

An Austrian representative in the European Stability Mechanism may only agree or abstain in voting to

1. a proposal for a resolution to grant stability aid to a member state in principle
2. an alteration of the approved share capital and an adaptation of the maximum loan volume of the European Stability Mechanism as well as the calling of approved share capital not having been paid in and
3. amendments of the financial aid instruments,

if the National Council has authorized him to do so on the basis of a proposal of the Federal Government. In cases of special urgency the Federal Minister in charge may consult with the National Council. Without approval by the National Council the Austrian representative must refuse the proposal for such a resolution.

- International organizations

### Art 50c

1. The Federal Minister in charge has to inform the National Council immediately in matters of the European Stability Mechanism according to the regulations in the Federal Law on the Standing Orders of the National Council. The Federal Law on the Standing Orders of the National Council has to provide the right of comments by the National Council.
2. To the extent the National Council has made comments in matters of the European Stability Mechanism in due time, the Austrian representative in the European Stability Mechanism has to respect them in negotiations and votings. The Federal Minister in charge has to report to the National Council immediately after the voting and eventually to disclose the reasons for which the Austrian representative did not respect the comments.
3. The Federal Minister in charge regularly reports to the National Council on the measures taken in the frame of the European Stability Mechanism.

- International organizations

### Art 50d

1. Further details to Art 50b and 50c para 2 and 3 are determined in the Federal Law on the Standing Orders of the National Council.
2. The Federal Law on the Standing Orders of the National Council may provide additional competences of the National Council for the participation in the exertion of the voting right by Austrian representatives in the European Stability Mechanism.
3. For the participation in matters of the European Stability Mechanism the Committee of the National Council in charge of preparatory advice for Federal financial laws elects permanent Sub-Committees. At least one member of any party represented in the Main Committee of the National Council must sit on any of these Sub-Committees. Competences of the National Council under para 2, Art 50b and 50c may be transferred to these standing Sub-Committees by the Federal Law on the Standing Orders of the National Council. The Federal law on the Standing Orders of the National Council has to provide, that the permanent Sub-Committees can be convened and meet any time. If the National Council is dissolved by the Federal President according to Art 29 para 1, the participation

- Legislative committees

3. in matters of the European Stability Mechanism is incumbent on the permanent Sub-Committees.

- Budget bills

## Art 51

1. The National Council votes the Federal Finance Frame Law and within its limits the Federal Finance Law. The respective Federal Government's draft shall form the basis of the debates.
2. The Federal Government has to submit to the National Council every year the latest at a deadline fixed in a Federal law, the draft of a Finance frame law or the draft of a Federal law by which the Federal Frame Finance Law is modified. The federal finance frame law has to contain upper limits for the financial means to be approved by the National Council in the respective financial frame law to be approved on the basis of categories as well as the basics of the personal planning; exempted from this is the use of means for the repayment of financial debts and of monetary commitments for the temporary strengthening of cash funds and the use of means as result of capital exchange in case of foreign exchange agreements. For further subcategories upper limits are to be provided for the subsequent financial year and the next following three financial years.
3. The Federal Government must submit to the National Council the draft of a Federal Finance Law for the ensuing fiscal year for which a Federal Finance Law is to be resolved at the latest ten weeks before the beginning of the fiscal year. Exceptionally the Federal Government may submit the draft of a Federal Finance Law also for the subsequent and the next following finance year, separate according to the years, to the National Council. .
4. In case a Federal Finance Law is passed for the subsequent and the next subsequent finance year, in the second half of the subsequent finance year, the draft of a Federal law, modifying the Federal Finance Act, is to be submitted by the Federal Government the latest ten weeks before the beginning of the next subsequent finance year, to the National Council. The modifications of the Federal Finance Law contained therein have in any case to make reference to the next subsequent finance year. The draft is to be negotiated by the National Council till the end of the subsequent finance year. Art 51 a para 1 and para 2 are to be applied accordingly.
5. The Federal Finance Law shall include as annexes the Federal budget estimates and the personal planning as well as other elements material for the management of the household. .
6. To the management of the household of the Federation apply.
  1. Upper limits of the categories of the Federal Finance Frame Law may neither be exceeded nor may such exceeding the authorized.
  2. The upper limits of the subcategories, to be determined by a Federal Law according to para 7 of the Federal Financial Frame Law for the subsequent financial year, must not be exceeded nor may such exceeding be authorized, unless a Federal Law according to para 9 provides, that these upper limits may be exceeded with the approval of the Federal Minister of Finance.

If exceptionally a Federal Finance Law is passed for the subsequent and the next subsequent financial year, the regulations of para 2 are to be applied with the proviso, that the upper limits named in para 2 last phrase apply to the subsequent and the next subsequent year.

7. The upper limits of para 6 subpara 1 and 2 may be exceeded in the following cases:
  1. In case of imminent danger, on the basis of an ordinance of the Federal Government, in consent with the Committee of the National Council entrusted with preliminary consultation of Federal Financial Laws, unforeseeable and unobjectionable additional means to the extent of a maximum of 2/1000 of the means allowed for by the Federal Finance Law may be provided, if coverage is safeguarded. If the Committee of the National Council in charge of preliminary consultation does not render a decision within two weeks consent deems to be given.
  2. In case of defense, for the purpose of comprehensive military defense (Art 9a) unobjectionable additional means within the financial year up to the amount of a total of 10/100 of the means having been provided for by Federal Financial Law for spending may be provided on the basis of an ordinance of the Federal Government in consent with the Committee of

7. 2. the National Council in charge of preliminary consultation for Federal Finance Laws. To the extent the allocation of such additional means cannot be safeguarded by economization of means or additionally raised means the ordinance of the Federal Government has to authorize the Minister for Finance to care for the necessary allocation of means by making or conversion of financial debts.
8. In the management of the Federal budgets the principles of striving for efficiency, mainly under respect of the goal of equal treatment of women and men, transparency, efficiency and a true picture of the financial situation of the Federation as much as possible are to be respected.
9. The more detailed provisions as to the preparation of the Federal Finance Frame Act, the Federal Finance Act and as to the other management of the Federal household shall be settled in conformity with uniform principles in accordance with the provisions of para 8 by Federal law. The latter shall in particular prescribe:
  1. the measures for an administration striving for efficiency, especially also under respect of the goal of equal treatment of women and men;
  2. the measures to safeguard transparency including the duty to render reports to the Committee of the National Council in charge of preliminary consultation regarding Federal Finance Laws;
  3. the making, structuring and binding effect of the Federal Finance Frame Law;
  4. the structuring of Federal Budget;
  5. the binding effect of the Federal Financial Law, mainly regarding the aspects of time and amount;
  6. the arguments for debts in advance including the preconditions which, if met, debts in advance require an ordinance of the Federal Minister for Finance in consent with the Committee of the National Council in charge of the preliminary consultation of Federal Finance Laws or statutory authorization;
  7. the creation of positive and negative budget reserves;
  8. disposition on Federal assets including the preconditions which, if met, require an ordinance of the Federal Minister for Finance in consent with the Committee of the National Council in charge of the preliminary consultation of Federal Finance Laws or statutory authorization;
  9. the assumption of liabilities by the Federation;
  10. making or conversion of liabilities by procuring financial means, which are not redeemed within the same financial year or through long term financing (financial debts);
  11. incentive- and sanction mechanisms;
  12. controlling;
  13. participation of the Court of Audit for the correctness of accountancy.

- Budget bills

## Art 51a

1. In case the Federal Government has not presented to the National Council in due time (Art 51 para 2 and 3) the draft of a Federal Finance Frame Act or a Federal Finance Act, a draft of a Federal Finance Frame Act or a Federal Finance Act may also be brought in by the members of the National Council.
2. In case the Federal Government presents the draft of a Federal Finance Frame Law or a Federal Finance law after such proposal has been brought forward, the National Council may resolve to consider either draft in its deliberations.
3. In case the National Council has not passed a Federal Finance Frame Law in a Financial year, the upper limits of the most recent financial year, for which upper limits had been determined, continue to apply.
4. If the National Council does not pass a Federal Finance Law for a financial year and likewise makes no temporary provision by way of a Federal law, the Federal household is to be managed according to the provisions of the most recently passed Federal Finance Law. Monetary debts then can only be incurred to half of the respectively anticipated ceiling amounts as well as short term commitments for the temporary reinforcement of cash holdings.

## Art 51b

1. The Federal Minister for Finance has to provide that in managing the budget first obligations due will be covered and then the other spending of means will be



1. made, however on the condition they can be covered and under respect of the principles according to Art 51 para 8.
2. If the development of the Federal Budget so requires or in the course of the financial year an essential change of the national economical development begins to emerge, the Federal Minister for Finance, with the approval of the Federal Government or on the basis of authorization under the Federal Finance Law, in order to control the Federal Budget may earmark a certain percentage of the spending of means provided by the Federal Finance Law, to the extent this does not affect the meeting of due obligations of the Federation. Within one month after the earmarking he has to report to the Committee of the National Council in charge of the preliminary consultations for Federal Finance Laws.
3. The Federal Minister for Finance has to regularly inform the members of the Federal Government and the other leading budgeting organs on the implementation of the budget.

### Art 51c

1. The use of means, not provided for in the Federal Finance Law or exceeding the use of means approved by the National Council may only be made on the basis of an authorization by Federal Finance Law.
2. The National Council may authorize the Federal Minister for Finance and the Federal Finance Law to approve the exceeding of the use of means provided for in the Federal Finance Law. Such authorization may only be granted to the extent the excession is linked to preconditions on material grounds and is specified or computable in amount. Furthermore, upon agreement by the Federal Minister for Finance, the use of means provided for in the Federal Finance Law may be exceeded,
  1. on the basis of a statutory obligation,
  2. in case of an existing financial debt or on the basis of currency exchange agreements or
  3. on the basis of another obligation already existing at the time the Federal Financial Law enters into force.

The approval on the basis of the provisions of this paragraph may only be granted in case of an unforeseen requirement and only to the extent as coverage is safeguarded and the respectively binding applicable upper limits according to Art 51 para 2 and 6 for the relevant financial year are not exceeded. The Federal Minister for Finance may transfer the authorizations granted on the basis of the provisions of this paragraph for the approval to exceed the use of means having been provided for with the exceptions of those according to subpara 2 - in consent with the leading budgeting organs in charge, to the heads of official authorities, to the extent this is necessary to implement an administration striving for efficiency.

3. The Federal Minister for Finance has to report quarterly to the Committee of the National Council in charge of the preliminary consultations for Federal Finance Laws on the measures taken according to para 2.

- Legislative committees

### Art 51d

1. A participation of the National Council in the budget management is incumbent on the Committee of the National Council in charge of the preliminary consultations for Federal Finance Laws. It may transfer certain agenda to a permanent sub-committee on which also the participation in the budget management is incumbent, in case the National Council is dissolved by the Federal President according to Art 29 para 1. The Committee in charge of the preliminary consultations for Federal Finance Laws and its permanent sub-committee are also to be convened when the National Council (Art 28) is not in session, if necessary. The Federal Law on the Standing Orders of the National Council provides further details.
2. Any further reports beyond Art 51b para 2 and 51c para 3 are to be submitted to the Committee of the National Council in charge of the preliminary consultations for Federal Finance Laws with regard to specific Federal legal provisions.

- Legislative oversight of the executive

## Art 52

1. The National Council and the Federal Council are entitled to examine the administration of affairs by the Federal Government, to interrogate its members about all subjects pertaining to execution, and to demand all relevant information as well as to ventilate in resolutions their wishes about exercise of the executive power.
- 1a. The competent committees of the National Council and the Federal Council are entitled to demand the presence of the head of an institution being dispensed of instructions according to Article 20 para 2 in the sessions of the committees and to interrogate him on all subjects of the administration of affairs.
2. Rights of control pursuant to para 1 hold good as regards the Federal Government and its members likewise in respect of enterprises in which the Federation has a participation of at least fifty per cent in the share, stock, or equity capital and which is subject to the control of the Public Audit Office. Such a financial participation shall be deemed equivalent to the domination of enterprises by way of different financial or other economic or organizational measures. This applies also to enterprises at every further level where the prerequisites pursuant to this paragraph are on hand.
3. Every member of the National Council and the Federal Council is entitled during the sessions of the National Council and the Federal Council to address brief oral questions to members of the Federal Government.
4. The detailed regulations respecting the right of interrogation will be settled by the Federal law, by the National Council's Standing Orders as well as in the Federal Council's Standing Orders.

- Legislative oversight of the executive
- Legislative committees

## Art 52a

1. The National Council's competent committees each elect a standing sub-committee of inquiry to review measures for the safeguard of constitutionally established agencies as well as their operative capacity and intelligence measures to secure the country's military defense. Each subcommittee must include at least one member from each of the parties represented in the Main Committee of the National Council.
2. The standing sub-committees are empowered to require from the competent Federal Ministers all relevant information and insight into the relevant materials. This does not apply to information and material, in particular about sources, whose disclosure would endanger national security or the safety of individuals.
3. The standing sub-committees can, if need be, meet at times others than those of National Council sessions.
4. The Federal law on the National Council's Standing Orders settles detailed provisions.

## Art 52b

1. For the scrutiny of a particular proceeding in a matter relating to the Federal financial administration the Committee constituted pursuant to Art 126d para 2 elects a Standing Sub-Committee. At least one member from every party represented in the National Council's Main Committee must belong to this Sub-Committee.
2. The detailed provisions are settled by the Federal law on the National Council's Standing Orders.

- Legislative committees

- Legislative oversight of the executive
- Legislative committees

## Art 53

1. The National Council can by resolution set up committees of inquiry.
2. The detailed regulations respecting the establishment of, and the procedure for, committees of inquiry will be settled by the Federal law on the National Council's Standing Orders.
3. The courts and all other authorities are obliged to comply with the request of these committees to take evidence; all public departments must on demand produce their files.

## Art 54

(Note: Repealed by F.L.G. I No. 2/1997)

- Legislative committees

## Art 55

1. The National Council elects its Main Committee from its members in accordance with the principle of proportional representation.
2. Should the need arise, the Main Committee shall be convoked also between sessions of the National Council (Art 28).
3. The Main Committee elects from its members a Standing Sub-Committee upon which devolve the powers stipulated by this Law. The election takes place in accordance with proportional representation; respect for this principle must nonetheless allow for inclusion in the Sub-Committee of at least one member of every party represented in the Main Committee. The Federal Law on the Standing Orders of the National Council must provide that the Standing Sub-Committee can be convoked and can meet at any time. If the National Council in accordance with Art 29 para 2 is dissolved by the Federal President, participation in the executive power which in accordance with this Law otherwise lies with the National Council (Main Committee) devolves upon the Standing Sub-Committee.
4. It can be stipulated by Federal law that certain general acts of the Federal Government or a Federal Minister need the agreement of the Main Committee as well as that reports be rendered to the Main Committee by the Federal Government or a Federal Minister. More detailed provisions, especially if no agreement is reached, are settled by the Federal Law on the National Council's Standing Orders.
5. As regards ordinances by the competent Federal minister concerning control measures for safeguarding undisturbed production or the supply of the population and other consumers with essential economic and consumer goods, provision shall be made for obtaining the consent of the National Council's Main Committee; in an emergency and for the repeal of such ordinances, special regulations may be adopted. Resolutions of the Main Committee approving such ordinances can only be adopted in the presence of at least half of its members and by a two-thirds majority of the votes cast.

## F. Status of Members of the National Council and the Federal Council

### Art 56

1. The members of the National Council and the members of the Federal Council are bound in the exercise of their function by no mandate.
2. If a member of the Federal Government or a State Secretary has relinquished his seat as a member of the National Council, the competent electoral board shall again assign him the seat when he has left office, in the circumstances of Art 71 after release from entrustment with continuation of the administration, provided that he has not within eight days advised the board of his disclaimer to the renewed exercise of his mandate.
3. This renewed assignment ends the mandate of that National Council member who has held the seat of the temporarily retired member in so far as another, subsequent National Council member did not on the occasion of nomination to the seat in the same constituency declare to the electoral board his wish to exercise the mandate as deputy for the temporarily retired member of the National Council.
4. Paras 2 and 3 also hold good if a member of the Federal Government or a State Secretary has not accepted his election to membership of the National Council.

- Electoral commission

- Electoral commission

- Immunity of legislators

### Art 57

1. The members of the National Council may never be made responsible for votes cast in the exercise of their function and only by the National Council on the grounds of oral or written utterances made in the course of their function.

2. The members of the National Council may on the ground of a criminal offence - the case of apprehension in the act of committing a crime excepted - be arrested only with the consent of the National Council. Domiciliary visitations of National Council members likewise require the National Council's consent.
3. Legal action on the ground of a criminal offence may otherwise without the National Council's consent be taken against members of the National Council only if it is manifestly not connected with the political activity of the member in question. The authority concerned must however seek a decision by the National Council on the existence of such a connection if the member in question or a third of the members belonging to the Standing Committee entrusted with these matters so demands. Every act of legal process shall in the case of such a demand immediately cease or be discontinued.
4. In all these instances the consent of the National Council counts as granted if within eight weeks it has not given a ruling on an appropriate request by the authority competent for the institution of legal action; the President, with a view to the National Council's adoption of a resolution in good time, shall at the latest put such a request to the vote on the day but one before expiry of the deadline. The latter does not include the period when the National Council is not in session.
5. In case of a member's apprehension in the act of committing a crime, the authority concerned must immediately notify the President of the National Council of the occurrence of the arrest. If the National Council or when it is not in session the Standing Committee entrusted with these matters so demands, the arrest must be suspended or the legal process as a whole be dropped.
6. The immunity of members ends with the day of the meeting of the newly elected National Council, that of functionaries of the National Council whose tenure of office extends beyond this date on the expiry of this term of office.
7. The detailed provisions are settled by the Federal law on the National Council's Standing Orders.

- Immunity of legislators

## Art 58

The members of the Federal Council enjoy for the whole duration of their tenure of office the immunity of the members of the Diet which has delegated them.

- Outside professions of legislators

## Art 59

No member of the National Council, the Federal Council or the European Parliament can simultaneously belong to one of the two other representative bodies.

## Art 59a

1. A public employee who seeks a seat in the National Council shall be granted the time necessary for the canvassing of votes.
2. A public employee who is a member of the National Council or the Federal Council shall, at his request, be granted leave of absence or be retired for the time necessary for the fulfilment of his membership duties. During leave of absence, pay shall correspond to the amount of work actually performed within the framework of service duties, but shall not exceed 75 per cent of total pay; this limit also applies if no use is made either of leave of absence or retirement. Retirement entails the termination of all service-related payments.
3. If it is not possible for a public employee to be appointed to his previous post because of the fulfilment of his membership duties, he is entitled to be assigned a reasonably equivalent - if he agrees, also a not equivalent - activity. The pay shall be determined by the activity actually performed by the employee.

## Art 59b

1. To control the pay of public employees who have been elected members of the National Council or Federal Council, a Commission will be set up under the auspices of the Parliamentary Staff. The Commission consists of:
  1. one representative nominated by each of the Presidents of the National Council,
  2. two representatives nominated by the President of the Federal Council with the consent of the Vice-Presidents,
  3. two representatives of the Laender,
  4. two representatives of the municipalities, and

1. 5. one member who previously exercised a judicial function.

The members in accordance with subparas 3 to 5 shall be appointed by the Federal President; in its recommendation (Art 67) regarding subpara 3, the Federal Government shall be bound by a joint recommendation by the Laender-Governors and regarding subpara 4 by a recommendation by the Austrian Federation of Local Authorities and a recommendation by the Austrian Union of Towns. The members of the Commission according to subparas 1 to 4 must be persons who previously exercised a function within the meaning of Art 19 para 2. A person who pursues a gainful occupation cannot be a member of the Commission. Membership in the Commission terminates with the expiry of the legislative period, but not before a new member has been nominated or appointed.

2. At the request of a public employee, who is a member of the National Council or the Federal Council, or at the request of his employing authority, the Commission gives an opinion on disputes arising between the public employee and his employing authority in the execution of Article 59a or in respect of regulations issued in its implementation. The Commission also gives opinions on such disputes arising between a judge and chamber or a commission within the meaning of Art 87 para 2 as well as on disputes arising between a member of the National Council or the Federal Council and the President of the National Council in the execution of Art 30 para 3.
3. The member of the National Council or Federal Council who is a public employee is obligated to inform the Commission each year about the arrangement he has made in respect of his leave of absence or retirement in accordance with Art 59a and how the work to be performed by him will be reviewed. Art 53 para 3 shall analogously apply to inquiries by the Commission. The Commission furnishes itself with Standing Orders. Each year, the Commission shall file a report with the National Council - as far as members of the Federal Council are concerned, with the Federal Council -, which shall be published.

## Chapter III. Federal Execution

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### A. Administration

#### 1. The Federal President

##### Art 60

1. The Federal President is elected by the Federal people on the basis of equal, direct, personal, free and secret suffrage by men and women having suffrage to the National Council. If there is only one candidate, the election shall take place by way of referendum. Article 26 para 5 to 8 is to be applied accordingly.
2. The candidate who polls more than half of all valid votes has been elected. If no such majority results, a second ballot takes place. Votes in this can validly be cast only for one of the two candidates who have polled the most votes in the first ballot.
3. Only a person who is eligible to the National Council and has completed the thirty-fifth year of life on the day of the election can be elected Federal President.
4. The result of the election of the Federal President shall be officially published by the Federal Chancellor.
5. The Federal President holds office for six years. Reelection for the immediately following term of office is admissible once only.
6. Before expiry of his term of office the Federal President can be impeached by referendum. The referendum shall be held if the Federal Assembly so demands. The Federal Assembly shall be convoked by the Federal Chancellor for this purpose if the National Council has passed such a motion. The National Council vote requires the presence of at least half the members and a majority of two thirds of the votes cast. By such a National Council vote the Federal President is prevented from the further exercise of his office. Rejection of the impeachment by the referendum holds good as a new election and entails the dissolution of the

- Head of state selection
- Secret ballot

- Head of state selection

- Eligibility for head of state
- Minimum age of head of state

- Head of state term limits
- Head of state term length

- Head of state removal
- Referenda

6. National Council (Art 29 para 1). In this instance too the Federal President's total term of office may not exceed twelve years.

## Art 61

1. During his tenure of office the Federal President may not belong to any general representative body nor exercise any other occupation.
2. The title "Federal President" may not - even with an addition or in the context of another designation - be used by anyone else. It is safeguarded by law.

## Art 62

1. On his assumption of office the Federal President renders the following affirmation before the Federal Assembly:

"I solemnly promise that I shall faithfully observe the Constitution and all the laws of the Republic and shall fulfill my duty to the best of my knowledge and belief."

2. The addition of a religious asseveration is admissible.

## Art 63

1. The institution of legal process against the Federal President is only admissible if the Federal Assembly has agreed.
2. The application for the institution of legal process against the Federal President shall be filed by the competent authority with the National Council which votes whether the Federal Assembly shall deal with the matter. If the National Council pronounces in favour of this, the Federal Chancellor must immediately convoke the Federal Assembly.

## Art 64

1. All the Federal President's responsibilities, should he be prevented from their discharge, pass in the first instance to the Federal Chancellor. A sojourn in another member state of the European Union is not deemed to be an impediment. If the impediment lasts longer than twenty days or if pursuant to Art 60 para 6 the Federal President is prevented from the discharge of his office, the President, the Second President, and the Third President of the National Council acting as a committee shall undertake the responsibilities of the Federal President. The same holds good if the position of the Federal President is continuously in abeyance.
2. The committee entrusted according to para 1 above with the exercise of the Federal President's functions decides by majority vote. Chairmanship of the committee devolves on the President of the National Council, likewise its representation in public.
3. If one or are two of the National Council's Presidents prevented from the discharge of their responsibilities or is their position continuously in abeyance, the committee still constitutes a quorum even without their participation; in the event of a tie, the President senior in rank has the casting vote.
4. In case the position of the Federal President is continuously in abeyance, the Federal Government shall immediately arrange the election of the new Federal President; after the ensuing election the committee shall without delay convoke the Federal Assembly for the affirmation of the Federal President.

## Art 65

1. The Federal President represents the Republic internationally, receives and accredits envoys, sanctions the appointment of foreign consuls, appoints the consular representatives of the Republic abroad and concludes state treaties. Upon the conclusion of a state treaty not falling under Art 50 or a state treaty pursuant to Art 16 para 1 which neither modifies nor complements existent laws, he can direct that the treaty in question shall be implemented by the issue of ordinances.
2. Furthermore there is vested in him - apart from the powers assigned to him in accordance with other provisions of this Constitution - authority:

- Oaths to abide by constitution

- Head of state immunity

- Head of state replacement

- Head of state powers

- Foreign affairs representative
- Treaty ratification

- Power to pardon
  2.
    - a. to appoint Federal civil servants, including officers as well as other Federal functionaries, and to bestow official titles on them;
    - b. to create and to bestow professional titles;
    - c. in individual cases: to pardon persons sentenced without further resources of appeal, to mitigate and commute sentences pronounced by the courts, as an act of grace to annul sentences and to grant remission from their legal consequences, and moreover to quash criminal proceedings in actions subject to prosecution ex officio;
    - d. on the petition of parents to declare illegitimate children legitimate.
  3. Special laws provide to what extent powers are additionally vested in the Federal President with respect to the grant of honorary privileges, extraordinary gratifications, allowances and pensions, the right to nominate and confirm persons in appointments and to exercise other powers in personnel matters.

## Art 66

- Treaty ratification
  1. The Federal President can assign to the competent members of the Federal Government the right vested in him to appoint certain categories of Federal civil servants and empower them to delegate, as regards certain categories of Federal Civil servants, this competence to authorities subordinate to him.
  2. The Federal President can authorize the Federal Government or the competent members of the Federal Government to conclude certain categories of state treaties which neither fall under Art 16 para 1 nor under Art 50; such an authorization extends also to the power to order that these treaties shall be implemented by the issue of ordinances.
  3. The Federal President can on the recommendation of a Land Government and with the counter-signature of the Governor authorize the Land Government to conclude treaties in accordance with Art 16 para 1 when they neither modify nor complement existing laws; such an authorization extends also to the power to direct that these treaties shall be implemented by the issue of ordinances.

- Powers of cabinet

## Art 67

- Head of government powers
  1. Save as otherwise provided by the Constitution, all official acts of the Federal President shall be based on recommendation by the Federal Government or the Federal Minister authorized by it. The law provides to what extent the Federal Government or the competent Federal Minister is herein dependent on recommendations from other quarters.
  2. Save as otherwise provided by the Constitution, all official acts of the Federal President require for their validity the countersignature of the Federal Chancellor or the competent Federal Minister.

## Art 67a

- Head of state removal
  1. The office of the Federal President, being sub-ordinate to the Federal President is called to assist him performing his official affairs. Details on the course of business in the president's office may be regulated by a standing order to be issued by the Federal President.
  2. Article 67 does not apply to the standing order of the president's office, for the appointment of employees of the president's office and the bestowing of official titles in exerting the superior authority.

## Art 68

- Head of state removal
  1. Pursuant to Art 142, the Federal President is responsible to the Federal Assembly for the exercise of his functions.
  2. To assert this responsibility, the Federal Assembly shall on the vote of the National Council or the Federal Council be convoked by the Federal Chancellor.
  3. The presence of more than half the members of each of the two representative bodies and a majority of two thirds of the votes cast is requisite to a vote whereby a charge, consonant with Art 142, is preferred against the Federal President.

## 2. The Federal Government

- Establishment of cabinet/ministers

### Art 69

- Powers of cabinet
- Head of government powers
- Name/structure of executive(s)
- Deputy executive
- Head of government replacement
- Deputy executive

1. The Federal Chancellor, the Vice-Chancellor and the other Federal Ministers are entrusted with the highest administrative business of the Federation in so far as this is not assigned to the Federal President. They constitute as a body the Federal Government under the chairmanship of the Federal Chancellor.
2. The Vice-Chancellor is entitled to deputize for the Federal Chancellor in his entire sphere of competence. Should the Federal Chancellor and the Vice-Chancellor simultaneously be prevented from the discharge of their responsibilities, the most senior – in the case of equal seniority, the eldest – member of the Federal Government who is not prevented from the discharge of his duties shall deputize for the Federal Chancellor.
3. The Federal Government has a quorum when more than half of its members are present.

### Art 70

- Cabinet removal
- Cabinet selection
- Head of government removal
- Head of government selection
- Head of government's role in the legislature
- Deputy executive
- Eligibility for cabinet
- Minimum age of head of government
- Eligibility for head of government

1. The Federal Chancellor and, on his recommendation, the other members of the Federal Government are appointed by the Federal President. No recommendation is requisite to the dismissal of the Federal Chancellor or the whole Federal Government; the dismissal of individual members of the Federal Government ensues on the recommendation of the Federal Chancellor. The appointment of the Federal Chancellor or the whole Federal Government is countersigned by the newly appointed Federal Chancellor; dismissal requires no countersignature.
2. Only persons eligible for the National Council can be appointed Federal Chancellor, Vice-Chancellor, or Federal Minister; members of the Federal Government need not belong to the National Council.
3. Should a new Federal Government be appointed by the Federal President at a time when the National Council is not in session, he must convoke the National Council for an extraordinary session (Art 28 para 2), and that to meet within one week, for the purpose of introducing the new Federal Government.

### Art 71

Should the Federal Government have left office, the Federal President shall entrust members of the outgoing Government with continuation of the administration and one of them with the chairmanship of the provisional Federal Government. A State Secretary attached to an outgoing Federal Minister or a senior civil servant in the Federal Ministry concerned can likewise be entrusted with continuation of the administration. This provision applies analogously if individual members of the Federal Government have left office. Whoever is entrusted with continuation of the administration bears the same responsibility as a Federal Minister (Art 76).

### Art 72

1. Before their assumption of office the members of the Federal Government render an affirmation to the Federal President. The addition of a religious asseveration is admissible.
2. The instruments of appointment for the Federal Chancellor, the Vice-Chancellor, and the other Federal Ministers are executed by the Federal President on the day of the affirmation and are countersigned by the newly appointed Federal Chancellor.
3. These provisions shall apply analogously to the cases mentioned in Art 71 above.

### Art 73

1. Should a Federal Minister be temporarily prevented from discharging his responsibilities, he instructs, in consent with another Federal Minister, the very, a state secretary attached to him or a senior civil servant of the respective Federal Ministry to deputize for him. Such instruction to deputize is to be notified to the Federal President and the Federal Chancellor. A sojourn in another member state



1. of the European Union is not deemed to be an impediment. If a Federal Minister is not in the situation to deputize in the sense of the first phrase, the Federal Chancellor, in consent with the deputy chancellor, instructs another Federal Minister, a state secretary attached to the prevented Federal Minister or a senior civil servant of the respective Federal Ministry to deputize. Such instruction to deputize is to be notified to the Federal President. The deputy carries the same responsibility as a Federal Minister (Art76).
2. The Federal Minister competent for a matter can assign to another Federal Minister or a State Secretary the power to participate in the sessions of the Council and within this framework to conduct the negotiations respecting a particular project and to vote thereon.
3. A member of the Federal Government who is staying in another Member State of the European Union may let his business in the National Council or Federal Council be taken care of by a State Secretary attached to him or another Federal Minister. A member of the Federal Government, who is not deputized for, may assign his right to vote in the Federal Government to another Federal Minister; this does not affect his accountability. The voting right may only be assigned to a member of the Federal Government who has not already been entrusted with deputizing for another member of the Federal Government and whom a voting right has not already been assigned to.

- Cabinet removal
- Head of government removal

## Art 74

1. If the National Council passes an explicit vote of no confidence in the Federal Government or individual members thereof, the Federal Government or the Federal Minister concerned shall be removed from office.
2. The presence of half the members of the National Council is requisite to a vote of no confidence in the National Council. Voting shall however be adjourned until the next working day but one if the number of members stipulated by the Federal law on the National Council's Standing Orders so demands. A fresh adjournment of the voting can ensue only from a decision by the National Council.
3. Notwithstanding the power otherwise vested in the Federal President in accordance with Art 70 para 1, the Federal Government or its individual members shall in the legally specified contingencies or at their own wish be removed from office.

- Powers of cabinet

## Art 75

The members of the Federal Government as well as the State secretaries are entitled to participate in all deliberations by the National Council, the Federal Council, and the Federal Assembly as well as the committees (subcommittees) of these representative bodies, but only at special invitation in the deliberations by the Standing Sub-Committee of the National Council's Main Committee and by the National Council's Committees of Inquiry. On each occasion they must, in accordance with the detailed provisions of the Federal law on the National Council's Standing Orders and of the Federal Council's Standing Orders, at their request be given a hearing. The National Council, the Federal Council, and the Federal Assembly as well as their committees (subcommittees) can require attendance by members of the Federal Government and request them to initiate investigations.

- Cabinet removal
- Head of government removal

## Art 76

1. Pursuant to Art 142, the members of the Federal Government (Arts. 69 and 71) are responsible to the National Council.
2. The presence of more than half the members is requisite to a motion which prefers a charge pursuant to Art 142.

## Art 77

1. The Federal Ministries and the authorities subordinate to them shall perform the business of the Federal administration.
2. The number of the Federal Ministries, their competence, and their internal organization will be prescribed by Federal law.
3. The Federal Chancellor is entrusted with the direction of the Federal Chancellery and a Federal Minister is entrusted with the direction of each of the other Federal Ministries. The Federal President can assign to special Federal Ministers the

- Powers of cabinet

- Powers of cabinet
- Head of government powers

3. direction of particular matters which fall within the Federal Chancellery's competence, including the personnel establishment and organization of such business, notwithstanding that these matters continue to appertain to the Federal Chancellery; such Federal Ministers have in respect of the matters in question the status of a competent Federal Minister.
4. The Federal Chancellor and other Federal Ministers can exceptionally be entrusted with the direction of a second Federal Ministry.

### Art 78

1. In special cases Federal Ministers can be appointed without at the same time being put in charge of a Federal Ministry.
2. State Secretaries, who are appointed and leave office in the same way as Federal Ministers, can be attached to Federal Ministers for assistance in the conduct of business and to deputize for them in Parliament. The Federal Chancellor may let his business in the National Council and in the Federal Council in accord with the vice chancellor being entrusted to head a Federal Ministry be taken care of by a state secretary attached to him. The vice chancellor, being entrusted to head a Federal Ministry may let his business in the National Council and in the Federal Council be taken care of by a state secretary attached to him, in consent with the Federal Chancellor.
3. The Federal Minister can with his consent likewise entrust the State Secretary with the conduct of certain functions. In the fulfilment of these the State Secretary is also subordinate to the Federal Minister and bound by his instructions.

## 3. The Federal Security Authorities

### Art 78a

1. The supreme security authority is the Federal Minister of the Interior. Subordinate to him are the police directorates of the Laender followed by the district administrative authorities in their capacity as security authorities.
2. If the life, health, freedom or property of individuals are actually in danger or such danger is directly impending, security officials are, irrespective of the competence of another authority for repulse of the hazard, competent to render primary assistance till the intervention of the respective competent authority.
3. Federal laws provide to what extent municipalities authorities must take action as security authorities.

### Art 78b

1. Every Land has a police directorate. Its head is the Land police director. In Vienna the Land police director of the police directorate of the Land bears the title „President of the police of the Land“.
2. The Federal Minister of the Interior appoints the police director of the Land in agreement with the Governor.
3. The Federal Minister of the Interior must inform the Governor of every nationally important instruction or such as is crucial for the maintenance of peace, order and security throughout the Land which he issues to a director of the police of the Land.

### Art 78c

Federal Law provides to which extent the police directorate of a Land simultaneously is security authority in first instance for the area of a municipality.

### Art 78d

1. Constabularies are armed or uniformed or otherwise militarily patterned units invested with tasks of a police character. In particular not to be counted among the constabularies are guard personnel established for the protection of certain branches of soil cultivation, such as agriculture and forestry (field, crops, and forest protection), for mining, hunting, fishing or other licensed water usages, market supervision officials, and fire brigades.

2. In the area of a municipality, where the police directorate of the Land simultaneously is security authority in first instance no other regional authority may set up a constabulary.

## 4. The Federal Army

### Art 79

1. The country's military defense is the duty of the Federal Army. It shall be conducted on the principles of a militia system.
2. The Federal Army, in so far as the lawful civil power claims its cooperation, has furthermore
  1. also beyond above the sphere of the country's military defense
    - a. to protect the constitutionally established institutions as well as their capacity to operate and the population's democratic freedoms,
    - b. to maintain order and security inside the country in general;
  2. to render assistance in the case of natural catastrophes and disasters of exceptional magnitude.
3. Additional tasks of the Federal Army will be prescribed by Federal constitutional law.
4. The Defense Law regulates which officials and authorities can lay direct claim to the co-operation of the Federal Army for the purposes mentioned in para 2 above.
5. Intervention by the military on its own initiative for the purposes mentioned in para 2 above is admissible only if circumstances outside their control have put it beyond capacity of the competent officials to effect intervention by the military and irreparable damage the community at large would arise from a further wait or if it concerns the repulse of an actual attack, or the elimination of active resistance directed against a section of the Federal Army.

- Designation of commander in chief

### Art 80

1. Commander-in-Chief of the Federal Army is the Federal President.
2. Save in so far as the Defense Law reserves disposal over the Federal Army to the Federal President, disposal over it lies with the competent Federal Minister within the limits of the authorization conferred on him by the Federal Government.
3. Supreme command over the Federal Army is exercised by the competent Federal Minister (Art 76 para 1).

### Art 81

Federal law prescribes to what extent the Laender participate in the recruitment, provisioning and accommodation for the Army and the supply of its other requirements.

## 5. The Federal School Authorities

### Art 81a

1. The administration of the Federation in the field of schooling and in the field of education in matters pertaining to student hostels shall be undertaken by the competent Federal Minister and -in so far as neither the university and higher education system, nor the agricultural and forestry school system nor the forestry and agricultural educational system in matters pertaining to student hostels and centralized educational agencies are concerned – by the school authorities of the Federation subordinate to the competent Federal Minister. The municipalities can, as part of the Federation's assigned sphere of competence, be called upon to maintain registers of those who are of school-attendance age.
2. A school authority shall be established in each Land and be known as the Land school board. In Vienna the Land school board is known as the Vienna City School Board. The applicable sphere of competence for members of the Land school boards shall be prescribed by Federal law.
3. The following guiding principles shall hold good for the establishment, to be prescribed by law, of the Federal school authorities:

3.
  - a. Committees shall be appointed within the framework of the Federal school authorities structure. Committee members of the Land school boards, with voting rights, shall be appointed in proportion to party strength in the Diet. The appointment of all or some of the committee members by the Diet is admissible.
  - b. The president of the Land school board is the Governor, Should the appointment of an executive Land school board president be foreseen by law, he shall deputize for the president in all business which the president does not reserve to himself. Should the appointment of a vice-president be foreseen by law, he is entitled to inspect documents and to proffer advice; such a vice-president shall in any case be appointed for those five Laender which, in accordance with the result of the last census taken prior to this Federal constitutional law coming into force, have the largest number of inhabitants.
  - c. The terms of reference for the committees and the presidents of the Land school boards shall be regulated by law. The committees shall be competent to issue rules and general instructions, to appoint officials and to render proposals for nominations as well as to render opinions on drafts of laws and ordinances.
  - d. In cases of urgency which do not admit of postponement until the committee's next meeting, the president shall take action in the sphere of competence allocated to the committee as pertaining to its business and without delay inform the committee of this.
  - e. Should for more than two months a committee lack a quorum the tasks of the committee for the further period of its numerical incapacity devolve upon the president. In these cases the president replaces the committee.
4. Instructions (Art 20 para 1) cannot be given on matters which fall into the committees sphere of competence. This does not hold good for instructions which forbid the implementation of a committee resolution as being contrary to law or which direct the repeal of an ordinance issued by the committee. The reasons for such instructions shall be stated.
5. The competent Federal Minister can satisfy himself in person or through officials of the Federal Ministry in his charge about the condition and performance of those schools and student hostels which are subordinate to the Federal Ministry by way of the Land school board. Established shortcomings – in so far as they do not concern such in the sense of Art 14 para 8 – shall be notified to the Land school board for the purpose of their redress.

## Art 81b

1. The Land school board shall render three ranked sets of proposals:
  - a. for the filling of Federal vacancies for headmasters/headmistresses as well as other teachers and educational assistants at schools and student hostels subordinate to the Land school boards;
  - b. for the filling of Federal vacancies for the school supervisory officials serving with the Land school boards as well as for the appointment of teachers with school supervisory functions.
2. The proposals in accordance with para 1 above shall be rendered, pursuant to Art 66 para 1 or Art 67 para 1 or by reason of other provisions, to the competent Federal Minister. The selection of individuals from among those proposed is incumbent on the Federal Minister.
3. Every Land school board shall establish eligibility and disciplinary school boards for headmasters/headmistresses and other teachers as well as educational assistants who are employees under public law of the Federation and are employed at a school (student hostel) subordinate to the Land school board. The details shall be prescribed by Federal law.

## 6. Universities

### Art 81c

1. The public universities are places of free scientific research, tuition and revelation of the arts. The act in the frame of the laws autonomously and may render statutes. The members of university collegial bodies are dispensed from instructions.

- Reference to art
- Right to academic freedom

2. Federal law may provide that the activity at the university as well as the participation in bodies of the university and the representation of the students by persons not having the Austrian nationality is admissible.
3. (Note: Repealed by F.L.G. I No. 51/2012)

## B. Jurisdiction of the Courts of Justice

### Art 82

1. The Federation is the source of the jurisdiction of the Courts of Justice.
2. Judgments and decisions are pronounced and drawn up in the name of the Republic.

### Art 83

1. The organization and competence of the Courts of Justice is laid down by Federal law.
2. No one may be deprived of his lawful judge.
3. (Note: Repealed by F.L.G. No. 73/1968)

- Structure of the courts

### Art 84

Military jurisdiction - except in time of war - is repealed.

- Prohibition of capital punishment

### Art 85

Capital punishment is abolished.

- Supreme court selection
- Ordinary court selection

### Art 86

1. Save as provided otherwise by this law, judges are appointed pursuant to the proposal of the Federal Government by the Federal President or, by reason of his authorization, by the competent Federal Minister; the Federal Government or the Federal Minister shall obtain proposals for appointment from the chambers competent according to Federal Law.
2. If a sufficient number of candidates is available, the proposal for appointment to be submitted to the competent Federal Minister and to be forwarded by him to the Federal Government shall comprise at least three names, but if there is more than one vacancy to be filled at least twice as many names as there are judges to be appointed.

### Art 87

1. Judges are independent in the exercise of their judicial office.
2. A judge is in the exercise of his judicial office during the performance of any judicial function properly his by law and the allocation of business, though to the exclusion of the judiciary's administrative business which in accordance with the provisions of the law shall not be discharged by chambers or commissions.
3. Business shall be allocated in advance among the judges of the Court of justice for the period provided by Federal law on the organization of the courts. A matter devolving upon a judge in accordance with this allocation may be removed from his jurisdiction only by decree of the chamber competent, in case of his being prevented from the discharge of his responsibilities or his being unable to cope with his duties, due to their extent, within a reasonable time.

- Judicial independence

### Art 87a

1. The performance of certain kinds of business, which shall be exactly specified and fall within the jurisdiction of a court of First instance, can by Federal law be assigned to specially trained personnel of the Federation who are not judges.
2. The judge competent in accordance with the allocation of business can however at any time reserve to himself or take over the discharge of such business.
3. The personnel of the Federation which is not a judge is bound in the performance of business specified in para 1 above only by instructions from the judge

- Right to appeal judicial decisions

3. competent in accordance with the allocation of business. Art 20 para 1 third sentence shall apply.

## Art 88

- Mandatory retirement age for judges
- Supreme/ordinary court judge removal

1. A Federal law will determine an age limit upon whose attainment judges will permanently retire.
2. Otherwise judges may be removed from office or transferred against their will or superannuated only in the cases and ways prescribed by law and by reason of a formal judicial decision. These provisions do not however apply to transfers and retirements which become necessary through a change in the organization of the courts. In such a case the law will lay down within what period judges can without the formalities otherwise prescribed be transferred and superannuated.
3. The temporary suspension of judges from office may take place only by decree of the head of a district court or president of a court or the superior judicial authority together with simultaneous reference of the matter to the competent court of justice.

## Art 88a

Federal Law may provide for posts of substitute judges assigned to a superior court of justice. The number of such posts may not exceed three per cent of the number of judge posts assigned to the subordinate courts of justice. The employment of the substitute judges in charge at subordinate courts of justice and eventually at the superior court itself shall be determined by the competent chamber of the superior court, defined by Federal Law. Substitute judges may be entrusted only with the substitution of judges of subordinated courts or judges of the higher ordinary court and only if these judges are prevented from the discharge of their responsibilities or are unable to cope with their duties, due to the extent of these, within a reasonable time.

## Art 89

- Constitutional court powers
- Constitutionality of legislation
- Constitutional interpretation
- Legal status of treaties

1. Save as otherwise provided by the following paragraphs, the courts of justice are not entitled to examine the validity of duly published ordinances, proclamations on the republication of a law (state treaty), laws and state treaties.
2. In cases where a general court has doubts concerning the use of an ordinance based on illegality, an announcement about the republication of a law (state treaty) because of illegality, a law based on unconstitutionality or a state treaty because of illegality, it must file a petition for the repeal of this legal provision at the Constitutional Court.
3. If the legal regulation to be applied by the court of justice has already ceased to be in force, the court's of justice application to the Constitutional Court must request a decision that the legal regulation was contrary to law, unconstitutional or illegal.
4. Federal law shall determine what effects an application pursuant to para 2, or para 3 above has on the proceedings pending at the court of justice.

- Constitutionality of legislation

## Art 90

- Right to public trial

1. Hearings in civil and criminal cases at the court of justice are oral and public. Exceptions are regulated by law.
2. In criminal proceedings the procedure is by indictment.

## Art 90a

Public prosecutors are functionaries of the jurisdiction. They represent the investigation and prosecution in cases for acts carrying a penalty by court. Federal Law determines the detailed regulations on their being bound to instructions of their superior functionaries.

- Jury trials required

## Art 91

1. The people shall participate in the jurisdiction.
2. A jury returns a verdict upon the guilt of the accused in crimes entailing severe penalties, to be specified by law, and in all cases of political felonies and

2. misdemeanours.
3. In criminal proceedings for other punishable offences lay assessors take part in the administration of justice if the penalty to be imposed exceeds a limit to be determined by law.

## Art 92

- Structure of the courts
- Outside professions of legislators
- Eligibility for supreme court judges

1. The Supreme Court is the court of final instance in civil and criminal suits.
2. Members of the Federal Government, a Land government, a general representative body or the European parliament cannot be members of the Supreme Court. For members of a general representative body or the European parliament elected for a fixed term of legislation or office such incompatibility continues until the expiry of that term of legislation or office even though they prematurely renounce their seat. Anyone who during the preceding five years has exercised one of the aforesaid functions cannot be appointed President or Vice-President of the Supreme Court.

## Art 93

General amnesties for acts punishable by the courts are extended by Federal law.

## Art 94

1. Judicial and administrative powers shall be separate at all levels of proceedings.
2. Federal or Laender Law may provide in specific matters an appeal from the administrative authority to a court of justice instead of an appeal to the administrative court. In the matters of execution of the Federation not directly handled by federal authorities, as well as in the matters of Art 11, 12, 14 para 2 and 3 and 14a para 3 and 4 Federal Laws may, in accordance with the first phrase, only be published upon approval by the Laender. To Laender laws according to the first phrase Art 97 para 2 of the Federal Constitution Law applies accordingly.

# Chapter IV. Legislation and Execution by the Laender

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## A. General Provisions

- Subsidiary unit government

## Art 95

- Compulsory voting
- Secret ballot

1. The legislation of the Laender is carried out by the Diets. The Diets are elected by equal, direct, personal, free and secret suffrage on the basis of proportional representation by the male and female Land citizens who in accordance with the Diet electoral regulations are entitled to vote. Land law regulates the detailed provisions respecting the electoral procedure and, if need be, the compulsory voting. This Land law shall in particular prescribe the grounds on which non-participation in the election notwithstanding compulsory voting is deemed to be excused. The constitution of a Land may provide that nationals, who had a residence in the Land, before moving their domicile abroad are entitled to vote for the duration of this sojourn abroad, for a maximum period of ten years.
2. The Diet electoral regulations may not impose more stringent conditions for suffrage and electoral eligibility than does the Federal Constitution for elections to the National Council.
3. The voters exercise their franchise in self-contained constituencies which can be divided into self-contained regional constituencies. The number of deputies shall be divided among the constituencies in proportion to the numbers of inhabitants. The Diet electoral regulations can provide for a final distribution procedure throughout the Land whereby a balance between the seats allocated to the candidate parties in the constituencies and likewise a distribution of the as yet unallocated seats is effected in accordance with the principles of proportional

3. representation. A division of the electorate into other electoral bodies is not admissible.
4. Detailed regulations on the election procedure shall be determined by the Diets' Standing Orders. Art 26 para 6 is to be applied accordingly.
5. To public employees who seek a seat in the Diet or who are elected to membership of a Diet, Art 59a shall apply, stricter regulations are admissible. Land constitutional law can create an institution with the same powers and the same obligation to publicize a report as those of the Commission under Art 59b.

### Art 96

1. The members of a Diet enjoy the same immunity as the members of the National Council; the provisions of Art 57 are applied analogously.
2. The provisions of Arts. 32 and 33 hold good also for the meetings of Diets and their committees.
3. Land law can determine upon a settlement in according with Art 56 paras 2 to 4 for Diet members who resign their seat on the occasion of their election to membership of the Federal Council or Land Government.

- Subsidiary unit government

### Art 97

1. A Land law requires a vote by a Diet, authentication and countersignature in accordance with the provisions of the Land concerned, and publication by the Governor in the Land Law Gazette.
2. Inasmuch as a Land law foresees in its execution the cooperation of Federal authorities the approval of the Federal Government must be obtained. Such enactments are to be notified immediately after the resolution of the Diet by the Governor to the office of the Federal Chancellor. The approval shall be deemed granted if within eight weeks after the day of the enactment's receipt at the Federal Chancellery the Federal Government has not informed the Governor that the co-operation of the Federal authorities is refused. Before the expiry of this deadline publication of the enactment may only ensue if the Federal Government has expressly agreed.
3. If the immediate enactment of measures which constitutionally require the adoption of a resolution by the Diet becomes necessary to avert manifest, irreparable harm to the community as a whole in circumstances where the Diet is unable to meet in time or is impeded in its function by events beyond its control, the Land Government can in agreement with a Diet committee appointed in accordance with the principle of proportional representation take these measures by way of temporarily law-amending ordinances. The Land Government must inform the Federal Government thereof without delay. The Diet shall be convened as soon as the impediment to its meeting has ceased to be operative. Art 18 para 4 holds good analogously.
4. The ordinances specified in para 3 above may in any case not signify an alteration to Land constitutional provisions and may neither comprise a permanent financial burden for the Land nor a financial burden for the Federation or the municipalities, nor financial commitments for the state's nationals, nor a disposal of Land property, nor measures pertaining to the matters specified in Art 12 para 1 subpara 6, nor lastly such as relate to the affairs of the chambers for workers and salaried employees engaged in agriculture and forestry.

### Art 98

(Note: Repealed by F.L.G. I No. 51/2012)

- Subsidiary unit government

### Art 99

1. The Land Constitution to be enacted by a Land constitutional law can, inasmuch as the Federal Constitution is not affected thereby, be amended by Land constitutional law.
2. A Land constitutional law can be passed only in the presence of half the members of the Diet and with a two thirds majority of the votes cast.



## Art 100

1. Every Diet can be dissolved by the Federal President on the request of the Federal Government and with the sanction of the Federal Council; such a dissolution may however be decreed only once for the same reason. The motion in the Federal Council must be carried in the presence of half the members and with a two thirds majority of the votes cast. The representatives of the Land whose Diet is to be dissolved may not participate in the division.
2. In case of dissolution writs for new elections shall within three weeks be issued in accordance with the provisions of the Land constitution; the convocation of the newly elected Diet must ensue within four weeks after the election.

- Subsidiary unit government

## Art 101

1. The executive power in each Land is exercised by a Land Government to be elected by the Diet.
2. The members of a Land Government need not belong to the Diet. Nevertheless only persons eligible for the Diet can be elected to membership of the Land Government.
3. The Land Government consists of the Governor, the requisite number of deputies, and other members.
4. Before assumption of office the Governor renders to the Federal President, the other members of the Land Government render to the Governor an affirmation with respect to the Federal Constitution. The addition of a religious asseveration is admissible.

### Art 101a

The publication of the legal provisions to be published in the Law Gazette of the Land can be made in the frame of the legal information system of the Federation.

## Art 102

1. In the sphere of the Laender, in so far as no Federal authorities exist (direct Federal administration), the Governor and the Land authorities subordinate to him exercise the executive power of the Federation (indirect Federal administration). In so far as Federal authorities are entrusted with the execution of matters which are performed as indirect Federal administration, these Federal authorities are subordinate to the Governor and bound by his instructions (Art 20 para 1); whether and to what extent such Federal authorities are entrusted with executive acts is regulated by Federal laws; these may, in so far as they do not concern the mandate stated in para 2 below, only be published with the sanction of the Laender concerned.
2. The following matters can within the framework of the constitutionally established sphere of competence be directly performed by Federal authorities:

- Telecommunications
- Provisions for intellectual property

demarcation of frontiers, trade in goods and livestock with other countries, customs, regulation and control of entry into and exit from Federal territory, the right of abode for humanitarian reasons; passports, banishment, expulsion and deportation; asylum; extradition, Federal finances, monopolies, the monetary-, credit-, stock exchange, banking, the weights and measures, standards and hallmark system, administration of justice, press affairs, the maintenance of peace, order and security, including the extension of primary assistance in general, but excluding those of the local public security administration, matters pertaining to association and assembly, the aliens police and matters pertaining to residence registration, matters pertaining to weapons, ammunition and explosives as well as the use of fire-arms, antitrust law; patent matters and the protection of designs, trade marks, and other commodity description, the traffic system, river and navigation police, the postal and telecommunications system, mining, Danube control and conservation, regulation of torrents, construction and maintenance of waterways, surveying, labour legislation social and contractual insurance, fostering money; legal provisions of social compensation, commercial transactions in seed and plant commodities, in fodder and fertilizer as well as plant preservatives, and in plant safety appliances including their admission and, in the case of seed and plant commodities, the preservation of monuments,

2. organisation and command of the Federal police likewise their acceptance; military affairs, matters of civilian service, population policy in so far as it concerns the grant of children's allowances and the organization of burden equalization on behalf of families; schooling as well as education in matters pertaining to pupil and student hostels with the exception of agricultural and forestry education in matters pertaining to student hostels, public tendering.
3. The Federation remains entitled to delegate to the Governor its executive power also in the matters enumerated in para 2 above.
4. The establishment of Federal authorities for matters other than those specified in para 2 above can ensue only with the sanction of the Laender concerned.
5. If in a Land the immediate enactment of measures in matters pertaining to the direct Federal administration becomes necessary to avert manifest, irreparable harm to the community as a whole in circumstances where the highest authorities of the Federal administration are impeded by events beyond their control, the Governor must take the measures on their behalf.

### Art 103

1. In matters of the indirect Federal administration the Governor is bound by instructions from the Federal Government and individual Federal Ministers (Art 20) and he is obliged, in order to effect the implementation of such instructions, also to employ the powers available to him in his capacity as a functionary of the Land's autonomous sphere of competence.
2. A Land Government, when it draws up its Standing Orders, can decide that specific categories of business pertaining to the indirect Federal administration shall be conducted by members of the Land Government in the name of the Governor because of their substantive relationship with matters pertaining to the Land's autonomous sphere of competence. In such business the members concerned of the Land Government are as much bound by the instructions of the Governor (Art 20) as is the latter by the instructions of the Federal Government or individual Federal Ministers.
3. Instructions issued by the Federal Government or individual Federal Ministers in accordance with para 1 above shall also in instances falling under para 2 above be addressed to the Governor. The latter, should he not himself be conducting the relevant business of the indirect Federal administration, is responsible (Art 142 para 2 subpara e) for passing the instruction in writing without delay and unaltered to the Land Government member concerned and for supervising its implementation. If the instruction is not complied with, although the Governor has made the necessary arrangements, the Land Government member concerned is pursuant to Art 142 responsible to the Federal Government as well.
4. (Note: Repealed by F.L.G. I No. 51/2012)

### Art 104

1. The provisions of Art 102 shall not apply to agencies for the performance of Federal business specified in Art 17.
2. Nonetheless the Federal Minister entrusted with the administration of Federal assets can assign the performance of such business to a Governor and the authorities subordinate to him. Such an assignment can at any time be revoked in part or in whole. To what extent in exceptional instances the Federation makes recompense for the accrued costs of performing such business will be regulated by Federal law. Art 103 paras 2 and 3 apply analogously.

### Art 105

1. The Governor represents the Land. In matters pertaining to the indirect Federal administration he is pursuant to Art 142 responsible to the Federal Government. The Governor has a member of the Land Government to substitute for him (Deputy Governor) who is designated by the Land Government. This appointment shall be notified to the Federal Chancellor. Should the need for substitution occur, the member of the Land Government appointed as substitute is pursuant to Art 142 likewise responsible to the Federal Government in matters pertaining to the indirect Federal administration. Immunity is no bar to the assertion of such responsibility on the part of the Governor or the member of the Land Government who substitutes for him. Immunity is likewise no bar to the

1. assertion of responsibility on the part of a member of the Land Government in a case arising under Art 103 para 3.
2. The members of the Land Government are responsible to the Diet pursuant to Art 142.
3. A vote to prefer a charge within the meaning of Art 142 requires the presence of half the members.

### **Art 106**

An administrative civil servant with legal training will be appointed to take charge as The Land administration's chief executive of the Land Government Office's internal services. He is also the official assistant of the Governor in matters pertaining to the indirect Federal administration.

### **Art 107**

(Note: Repealed by F.L.G. No. 444/1974)

## **B. The Federal Capital Vienna**

- Subsidiary unit government

### **Art 108**

For the Federal capital, Vienna, in its capacity as a Land, the municipal council has additionally the function of the Diet, the city senate the function of the Land Government, the mayor the function of the Governor, the City administration the function of the Land Government Office, and the city administration's chief executive the function of the Land administration's chief executive.

### **Art 109**

Art. 102 para 1 applies to the Federal Capital Vienna with the proviso, that the execution of the Federation, to the extent separate federal authorities do not exist (direct Federal Administration), is exerted by the mayor as Governor and by his subordinate city administration as district administration authority

### **Art 110**

(Note: Repealed by F.L.G. No. 490/1984)

### **Art 111**

(Note: Repealed by F.L.G. I No. 51/2012)

### **Art 112**

Allowing for Art 108 and 109 the provisions of Section A of the fifth Chapter hold good in other respects for the Federal capital Vienna, with the exception of Art 117 para 6 second phrase, Art 119 para 4 and Art 119a. Art 142 para 2 subpara e also applies to the conduct of the sphere of competence assigned by the Federation to the Federal capital, Vienna.

### **Art 113**

(Repealed)

### **Art 114**

(Repealed)

## Chapter V. Self administration

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### A. Municipalities

#### Art 115

1. In so far as in the following Articles the term municipality is used, the reference is to be taken as meaning local community.
2. Save as competence on the part of the Federation is expressly stipulated, Land legislation shall prescribe laws pertaining to municipalities in accordance with the principles of the Articles contained in this Section. Competence for the settlement of matters which, pursuant to Arts. 118, 118a and 119, are to be performed by the municipalities including an eventual exclusion of appeal will be determined in accordance with the general provisions of this Federal Constitutional Law.
3. The Austrian Association of municipalities (Austrian Communal Federation) and the Austrian Association of Cities and Towns (Austrian Municipal Federation) are competent to represent the interests of the municipalities.

- Municipal government

#### Art 116

1. Every Land is divided into municipalities. The municipality is a territorial corporate body entitled to self-administration while being at the same time an administrative local district. Every piece of land must form part of a municipality.
2. The municipality is an independent economic entity. It is entitled, within the limits of the general laws of the Federation and the Laender, to possess assets of all kinds, to acquire and to dispose of such at will, to operate economic enterprises as well as to manage its budget independently within the framework of the constitutional finance provisions and to levy taxation.
3. A municipality with at least 20,000 inhabitants shall at its own request, if Land interests are not thereby jeopardized, be awarded its own charter by way of Land legislation (town charter). Such an enactment may only be published with Federal Government approval. This shall be deemed given if the Federal Government within eight weeks from the day of the enactment's arrival at the competent Federal Ministry has not informed the Governor that the approval is refused. A town with its own charter shall perform besides its municipal administrative duties also those of the district administration.
4. (Note: Repealed by F.L.G. No. 490/1984)

- Federal review of subnational legislation

#### Art 116a

1. For the performance of their matters municipalities can by agreement associate in municipality associations. Such an agreement requires the sanction of the supervisory authority. The sanction shall be conferred by ordinance if a lawful agreement between the municipalities concerned is on hand and the formation of the municipal association
  1. does not in the case of performance of matters appurtenant to the sovereign administration jeopardize the function of the municipalities concerned as self-administrative corporate bodies,
  2. in the case of performance of matters appurtenant to the municipalities as holders of private rights it lies for reasons of expediency, economic efficiency, and thrift in the interest of the municipalities concerned.
2. In the interest of expediency the competent legislation (Arts. 10 to 15) can provide for the performance of matters in the sphere of competence of the municipality by the formation of municipal associations, but the function of the municipalities as self-administrative corporate bodies and administrative local districts may not thereby be jeopardized. The municipalities concerned shall by way of an executive measure be given a hearing prior to the formation of municipal associations.
3. The organs of the municipal associations which are to undertake matters pertaining to the municipality's own sphere of competence are to be formed

3. according to democratic principles.
4. The Land legislature shall prescribe the organization of the municipal association and in this connection it shall provide for an association board, which must in any case consist of elected representatives from all member municipalities, and an association chairman. Rules shall moreover be established, in the case of municipal associations formed by agreement, as regards admission to and withdrawal from the municipal association as well as its dissolution.
5. Competence as to the regulation of matters to be undertaken by the municipal associations is governed by the general provisions of this Federal Constitutional Law.
6. The merger of municipalities of different Laender to municipal associations is permitted under the proviso of an agreement between the respective Laender according to Art 15a, in which mainly provisions on the approval of the formation of municipal associations and the implementation of supervision must be contained.

## Art 116b

Municipalities of a Land may conclude agreements among each other on their respective sphere of competence, to the extent, Land legislature so provides. Doing so, Land legislature also has to provide provisions on the publication of such agreements as well as on the solution of disagreements. Art 116a para 6 applies accordingly to the agreements of municipalities of different Laender.

- Municipal government

## Art 117

1. The authorities of the municipality shall in every instance include:
  - a. the municipal council, being a general representative body to be elected by those entitled to vote in the municipality;
  - b. the municipal executive board (city council), or in towns with their own charter the city senate;
  - c. the mayor.
2. The municipal council is elected on the basis of proportional representation by equal, direct, personal and secret suffrage by the male and female Federal nationals who have their principal domicile in the municipality. The election regulations laws can however stipulate that also nationals who have a domicile, but not their principal domicile, in the municipality, are entitled to vote. In the electoral regulations the conditions for suffrage and electoral eligibility may not be more restrictive than in the electoral regulations for the Diet; the provision can however be made that individuals who have not yet been a year resident in the municipality shall not be entitled to vote or to stand for election to the municipal council if their residence in the municipality is manifestly temporary. Among the conditions to be laid down by the election regulation is the entitlement to suffrage and electoral eligibility also for nationals of other European member states. The electoral regulation can provide that the voters exercise their suffrage in self-contained constituencies. . A division of the electorate into other electoral bodies is not admissible. Article 26 para 6 is to be applied accordingly. The electoral regulations can, in cases where no election proposals are brought forward, decree that individuals shall be deemed elected whose names appear most frequently on the ballot papers.
3. A simple majority by members present in sufficient numbers to form a quorum is requisite to a vote by the municipal council; for certain matters, though, other requirements for the adoption of resolutions can be provided.
4. Meetings of the municipal council are public, but provision can be made for exceptions. The public may not be excluded when the municipal budget or the municipal final accounts are on the agenda.
5. Electoral parties represented in the municipal council have a claim to representation on the municipal executive board in accordance with their strength.
6. The mayor shall be elected by the municipal council. Land constitution can however stipulate that the mayor shall be elected by those with municipal council suffrage. In this case Article 26 para 6 is to be applied accordingly.
7. The business of the municipalities will be performed by the local administrative office (city administrative office), that of towns with their own charter by the City administration. A civil servant with legal training shall be appointed to take

- Secret ballot

7. charge as city administration's chief executive of the City administration's internal services.
8. The Land legislature can in matters pertaining to the municipality's own sphere of competence provide for the direct participation and assistance of those entitled to vote in the municipal council election.

- Municipal government

## Art 118

1. A municipality has its own sphere of competence and one assigned to it either by the Federation or the Land.
2. Its own sphere of competence comprises, apart from the matters mentioned in Art 116 para 2, all matters exclusively or preponderantly the concern of the local community as personified by a municipality and suited to performance by the community within its local boundaries. Legislation shall expressly specify matters of that kind as being such as fall within the municipality's own sphere of competence.
3. A municipality is guaranteed official responsibility in its own sphere of competence for performance of the following matters in particular:
  1. appointment of the municipal authorities, notwithstanding the competence of election boards at a higher level; settlement of the internal arrangements for performance of the municipal functions;
  2. appointment of the municipal staff and exercise of the service prerogative over them, notwithstanding the competence of disciplinary, eligibility, and exam commissions at a higher level;
  3. local public security administration (Art 15 para 2), local events control;
  4. administration of municipal traffic areas, local traffic police;
  5. crops protection police;
  6. local market police;
  7. local sanitary police, especially in the field of emergency and first aid services as well as matters pertaining to deaths and interment;
  8. public decency;
  9. local building police; local fire control; local development planning;
  10. public services for extra-judicial settlement of disputes;
  11. voluntary sale of movables.
4. The municipality shall perform the business for which it is competent within the framework of the laws and ordinances of the Federation and the Land on its own responsibility free from instructions and under exclusion of legal redress to administrative authorities outside the municipality. In the matters of the own sphere of competence there is a two-stage channel of appeal; this can be excluded by law. In matters of the own sphere of competence the Federation and the Land have a right of supervision over the municipality (Art 119a).
5. The mayor, the members of the municipal executive board (city council, city senate) and, if appointed, other municipal officials are responsible to the municipal council for the performance of their functions relating to the municipality's own sphere of competence.
6. The municipality is entitled in matters pertaining to its own sphere of competence to issue on its own initiative local police ordinances for the prevention of imminently to be expected or existent nuisances interfering with local communal life as well as to declare non-compliance with them an administrative contravention. Such ordinances may not violate existent laws and ordinances of the Federation and Land.
7. On application by a municipality the performance of certain matters in its own sphere of competence can, in accordance with Art 119a para 3, be assigned by ordinance of the Land Government or by ordinance of the Governor to a state authority. In so far as such an ordinance is meant to assign competence to a Federal authority, it requires the approval of the Federal Government. In so far as such an ordinance by the Governor is meant to assign competence to a Land authority, it requires the approval of the Land Government. Such an ordinance shall be rescinded as soon as the reason for its issue has ceased. Assignment does not extend to the right to issue ordinances in accordance with para 6 above.
8. The establishment of a municipal constabulary or a change in its organization must be notified to the Federal Government.

## Art 118a

1. Federal or Land law may provide that with the approval of the municipality the members of a municipal constabulary may be empowered to perform executive services for the competent authority.
2. With the approval of the municipality, the district administrative authority may empower members of a municipal constabulary to participate in the application of administrative penal law to the same extent as the other organs of the public safety service. This mandate can be issued only to the extent to which the organs of the public safety service have to supervise the compliance with the administrative regulations in the matter that constitutes the subject of the administrative penal proceedings or to the extent to which this matter falls into the municipality's sphere of competence.

## Art 119

1. The assigned sphere of competence comprises those matters which the municipality in accordance with Federal laws must undertake at the order and in accordance with the instructions of the Federation or in accordance with Land laws at the order and in accordance with instructions of the Land.
2. The business of the assigned sphere of competence is performed by the mayor. In doing so, he is in matters pertaining to Federal execution bound by instructions from the competent Federal authorities, in matters pertaining to Land execution by instructions from the competent Land authorities; he is responsible in accordance with para 4.
3. The mayor can - without detracting from his responsibility - on account of their factual connection with matters pertaining to the municipality's own sphere of competence transfer individual categories of matters pertaining to the assigned sphere of competence to members of the municipal executive board (city council, city senate), other authorities created in accordance with Art 117 para 1 or members of official bodies for performance in his name. In these matters the authorities concerned or their members are bound by the instructions of the mayor and responsible in accordance with para 4.
4. In so far as intent or gross negligence can be laid to their charge, the authorities named in paras 2 and 3 above can on account of breach of law as well as on account of noncompliance with an ordinance or instruction be declared to have forfeited their office, by the Governor if they were acting in the field of Federal execution, by the Land Government if they were acting in the field of Land execution. Should such a person belong to the municipal council, the membership is not thereby affected.

## Art 119a

1. The Federation and the Land exercise the right of supervision over a municipality to the purpose that it does not infringe laws and ordinances in dealing with its own sphere of competence, in particular does not overstep its sphere of competence, and fulfills the duties legally devolving upon it.
2. The Land has furthermore the right to examine the financial administration of a municipality with respect to its thrift, efficiency, and expediency. The result of the examination shall be conveyed to the mayor for submission to the municipal council. The mayor shall within three months inform the supervisory authority of the measures taken by reason of the result of the check.
3. In so far as a municipality's own sphere of competence comprises matters deriving from the sphere of Federal execution, the right of supervision and its legislative regulation lie with the Federation, in other respects with the Laender; the right of supervision shall be exercised by the authorities of the ordinary public administration.
4. The supervisory authority is entitled to inform itself about every kind of municipal business. The municipality is bound to impart the information demanded in individual cases by the supervisory authority and to allow examination to be conducted on the spot.
5. (Note: Repealed by F.L.G. I No. 51/2012)
6. The municipality shall without delay advise the supervisory authority of ordinances issued in its own sphere of competence. The supervisory authority

- Subsidiary unit government

- Subsidiary unit government

- Federal review of subnational legislation
- National vs subnational laws

6. shall after a hearing of the municipality rescind ordinances which are contrary to law and simultaneously advise the municipality of the reasons.
7. In so far as the competent legislature (para 3) contemplates the dissolution of the municipal council as a supervisory expedient, this measure rests with the Land Government in exercise of the Land's right of supervision, with the Governor in exercise of the Federation's right of supervision. The admissibility of effecting a substitution shall be confined to cases of absolute necessity. Supervisory expedients shall be applied with greatest possible consideration for third parties' acquired rights.
8. Individual measures to be taken by a municipality in its own sphere of competence but which to a special degree affect extra-local interests, particularly such as have a distinct financial bearing, can be tied by the competent legislature (para 3) to a sanction on the part of the supervisory authority. Only a state of affairs which unequivocally justifies the preference of extra-local interests may come into consideration as a reason for withholding the sanction.
9. The municipality is party to supervisory authority proceedings and is entitled to lodge complaint with the Administrative Court (Art 130 to 132). It is party of the proceedings before the Administrative Court and is entitled to file for revision at the Administrative Court (Art 133) and complaint at the Constitutional Court (Art 144).
10. The provisions of this Article shall find corresponding application to supervision of municipal associations in so far as these perform matters pertaining to a municipality's own sphere of competence.

## Art 120

The combination of local communities into territorial communities, their establishment in line with the pattern of self-administration, and the determination of other principles for the organization of the ordinary public administration in the Laender is the business of Federal constitutional legislation; its implementation devolves upon the Land legislatures. Settlement of the competence in matters pertaining to the service code for and staff representation rights of the territorial community employees is the business of Federal constitutional legislation.

## B. Other self administration

### Art 120a

1. People may be united by law to self administrating bodies to autonomously take care of public interests being in their exclusive or preponderant common interest and qualified to be handled jointly by them.
2. The Republic recognizes the role of the social partners. It respects their autonomy and supports the social partners' dialogue by instituting self administration bodies.

### Art 120b

1. The self administrating bodies are authorized to take care of their tasks in own responsibility without instructions and to render statutes in the frame of the laws. The Federation or the Land have a right of supervision over them on the basis of the legal regulations with regard to the legality of the handling of the administration. Such right of supervision may also extend to the expedience of the handling of the administration, if such is required because of the tasks of the self administrating body. By law ways of participation of the self administering bodies in the public execution maybe provided.
2. Upon the self administrating bodies tasks of administration of the state may be conferred. The laws have to expressly indicate that such matters belong to the assigned executive responsibility and to provide a binding effect of the instructions by the supreme administrative authorities.
3. The laws may provide forms of participation of self administering bodies in the execution of state affairs.



## Art 120c

1. The organs of the self administering bodies are to be established according to democratic principles out of its members.
2. Thrifty and economical performance of the tasks of the self administrate bodies is to be safeguarded of the basis on the legal regulations by contributions of its members or other means.
3. The self administering bodies are independent business entities. In the frame of the laws they may, in order to fulfill their tasks, acquire possess and dispose of all kinds of assets.

# Chapter VI. Control of Public Accounts and Administration of Public Funds

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## Art 121

1. Competent to examine the administration of public funds by the Federation, the Laender, the municipal associations, the municipalities and other legal entities determined by law is the Public Audit Office.
2. The Public Audit Office draws up the final Federal budget accounts and submits them to the National Council.
3. All vouchers about financial debts of the Federation, in so far as they remit in liability on the part of the Federation, shall be countersigned by the President of the Public Audit Office or, should he be impeded, by his deputy. The countersignature guarantees only the legality of the borrowing and the correct registration in the ledger of the national debt.
4. Every second year the Public Audit Office shall in the case of undertakings and agencies subject to its control and on which it has a duty to report to the National Council ascertain by a request for information from these undertakings and agencies the average incomes, including all social service payments, contributions in kind, and additional retirement benefits, of members of the management board and the supervisory board as well as of all employees and report thereon to the National Council. The average incomes of the foregoing categories of persons shall in this connection be shown separately for each undertaking and each agency.

## Art 122

1. The Public Audit Office is directly subordinate to the National Council. It acts as agent for the National Council in matters pertaining to Federal administration of public funds and the financial administration of professional corporations in so far as they come under the executive authority of the Federation, as agent for the Diet concerned in matters pertaining to Laender, municipal associations, and municipal administration of public funds as well as the financial administration of professional corporations in so far as they come under the executive authority of the Laender.
2. The Public Audit Office is independent of the Federal Government and the Land Governments and subject only to the provisions of the law.
3. The Public Audit Office consists of a President and the requisite officials and auxiliary personnel.
4. The President of the Public Audit Office is elected on the proposal of the Main Committee of the National Council for a twelve years period of office; reelection is inadmissible. Before his assumption of office he renders an affirmation to the Federal President.
5. The President of the Public Audit Office may neither belong to any general representative body nor the European Parliament during the past five years have held office in the Federal or a Laender Government.

## Art 123

1. With regard to accountability the President of the Public Audit Office has the same status as members of the Federal Government or of members of the Land Government concerned, depending on whether the Public Audit Office acts as agent of the National Council or a Diet.
2. He can be relieved of office by a vote of the National Council.

## Art 123a

1. The President of the Public Audit Office is entitled to participate in the debate by the National Council and its committees (subcommittees) on reports by the Public Audit Office, on the final Federal budget accounts, on motions concerning implementation of specific actions in the Public Audit Office's examination of the administration of public funds, and on the subdivisions relating to the Public Audit Office in the Federal Finance Act.
2. The President of the Public Audit Office has, in accordance with the detailed provisions of the Federal law on the National Council's Standing Orders, always the right at his own request to be heard in the debates on the subjects listed in para 1 above.

## Art 124

1. Should the President of the Public Audit Office be prevented from the discharge of his responsibilities, the senior official of the Public Audit Office will act for him. This also holds good if the office of President is vacant. Who shall act in the National Council as deputy for the President of the Public Audit Office is settled by the Federal law on the National Council's Standing Orders.
2. If someone deputizes for the President, the provisions of Art 123 para 1 apply to the deputy.

## Art 125

1. The officials of the Public Audit Office are appointed by the Federal President upon the recommendation and with the countersignature of the President of the Public Audit Office; the same holds good for the conferment of the official titles. The Federal President may however authorize the President of the Public Audit Office to appoint officials of certain categories.
2. The President of the Public Audit Office appoints the auxiliary personnel.
3. The Federal service prerogative with regard to employees of the Public Audit Office is exercised by the President of the Public Audit Office.

## Art 126

No member of the Public Audit Office may be a participant in the management and administration of enterprises subject to control by the Public Audit Office. Just as little may a member of the Public Audit Office participate in the management and administration of any other enterprises operating for profit.

- Constitutional court powers

## Art 126a

Should divergences of opinion arise between the Public Audit Office and a legal entity (Art 121 para 1) on interpretation of the legal provisions which prescribe the competence of the Public Audit Office, the Constitutional Court decides the issue upon application by the Federal Government or a Land Government or the Public Audit Office. All legal entities must in accordance with the legal opinion of the Constitutional Court render possible a scrutiny by the Public Audit Office.

## Art 126b

1. The Public Audit Office shall examine the entire management of the Federation and furthermore the financial administration of endowments, funds and institutions administered by Federal authorities or persons (groups of persons) appointed for the purpose by authorities of the Federation.
2. The Public Audit Office also examines the financial administration of enterprises where the Federation, either as the sole participant or together with other legal entities falling within the competence of the Public Audit Office, at any rate holds at least fifty per cent of the share, stock, or equity capital or where the Federation is either their sole or joint operator with other such legal entities. The Public Audit Office also examines the financial administration of enterprises of which the Federation, either as the sole participant or together with legal entities falling within the competence of the Public Audit Office, has de facto control by other financial, other economic, or organizational measures. The competence of the Public Audit Office extends moreover to enterprises of any additional category where the conditions pursuant to this paragraph exist.
3. The Public Audit Office is competent to examine the financial administration of corporations under public law using Federal funds.
4. The Public Audit Office shall on a vote by the National Council or at the request of National Council members carry out special measures of investigation into financial administration which falls into its sphere of competence. The more detailed regulation will be laid down by the Federal law on the National Council's Standing Orders. The Public Audit Office shall likewise carry out such measures at the substantiated request of the Federal Government or a Federal Minister and report the result to the applicant authority.
5. Examination by the Public Audit Office shall extend to arithmetical correctness, compliance with existing regulations, and the employment of thrift, efficiency and expediency.

## Art 126c

The Public Audit Office is competent to examine the financial administration of the social insurance institutions.

## Art 126d

1. The Public Audit Office annually renders the National Council not later than 31 December in any year a report on its activities. The Public Audit Office can moreover at any time report to the National Council its observations on individual matters and, if necessary, make proposals. The Public Audit Office must simultaneously with its submission to the National Council inform the Federal Government of every report. The Public Audit Office's reports shall be published after submission to the National Council.
2. A Standing Committee shall be appointed by the National Council to discuss the reports of the Public Audit Office. Its appointment shall maintain the principle of proportional representation.

- Legislative committees

## Art 127

1. The Public Audit Office shall examine the financial administration of the Laender in their autonomous sphere of competence as well as the financial administration of endowments, funds and institutions administered by the authorities of a Land or persons (groups of persons) appointed for the purpose by authorities of the Land. The examination shall extend to arithmetical correctness, compliance with existing regulations, and the employment of thrift, efficiency and expedience in the financial administration; it shall not however include the resolutions passed by the constitutionally competent representative bodies with respect to the financial administration.
2. The Land Governments shall annually transmit to the Public Audit Office the budget estimates and the final budget accounts.

3. The Public Audit Office also examines the financial administration of enterprises where the Land is either the sole participant or holds at least fifty per cent of the share, stock, or equity capital together with other legal entities falling within the competence of the Public Audit Office or where the Land is either their sole or joint operator with other such legal entities. As regards the powers of examination in case of de facto control Art 126b para 2 holds good analogously. The competence of the Public Audit Office extends moreover to enterprises of any additional category where the conditions pursuant to this paragraph exist.
4. The Public Audit Office is competent to examine the financial administration of corporations under public law using Land funds.
5. The result of its examination is communicated by the Public Audit Office to the Land concerned. The latter shall comment upon this and within three months advise the Public Audit Office of the measures taken by reason of the examination's result.
6. The Public Audit Office annually renders the Diet, at the latest by 31 December in any year, a report on those of its activities relating to the Land. The Public Audit Office can moreover at any time report to the Diet its observations on individual matters. The Land Government and the Federal Government must be informed of every report by the Public Audit Office simultaneously with its submission to the Diet. The Public Audit Office's reports shall be published after submission to the Diet.
7. On a vote by the Diet or at the request of Diet members, their numbers regulated by Land constitutional law but not permitted to exceed one third, the Public Audit Office shall carry out special measures of investigation which fall into its sphere of competence. As long as the Public Audit Office has by reason of such a motion not rendered the Diet a report, no additional motion of such kind may be proposed. The Public Audit Office must likewise carry out such measures at the substantiated request of a Land Government and report the result to the applicant authority.
8. The provisions of this Article also hold good for the examination into the financial administration of the City of Vienna, the municipal council taking the place of the Diet and the city senate taking the place of the Land Government.

## Art 127a

1. The Public Audit Office shall examine the financial administration of municipalities with at least 10.000 inhabitants as well as the financial administration of endowments, funds and institutions administered by the authorities of a municipality or persons (groups of persons) appointed for the purpose by the authorities of a municipality. The examination shall extend to the arithmetical correctness, compliance with existing regulations, and the employment of thrift, efficiency and expediency in the financial administration.
2. The mayor shall annually transmit to the Public Audit Office and simultaneously to the Land Government the budget estimates and the final budget accounts.
3. The Public Audit Office also examines the financial administration of enterprises where a municipality with at least 10.000 inhabitants is either the sole participant or holds at least fifty per cent of the share, stock, or equity capital together with other legal entities falling within the competence of the Public Audit Office or where the municipality is either their sole or joint operator with other such legal entities. As regards the powers of examination in case of de facto control Art 126b para 2 holds good analogously. The competence of the Public Audit Office extends moreover to enterprises of any additional category where the conditions pursuant to this paragraph exist.
4. The Public Audit Office is competent to examine the financial administration of corporations under public law using funds of a municipality with at least 10.000 inhabitants.
5. The result of its examination is transmitted by the Public Audit Office to the mayor. The latter shall comment upon this and within three months advise the Public Audit Office of the measures taken by reason of the examinations's result. The Public Audit Office shall advise the Land Government and the Federal Government of the result of its examination into the financial administration together with any possible comment by the mayor.
6. The Public Audit Office annually renders the municipal council, at the latest by 31 December, a report on its activities in so far as they concern the municipality. The Land Government and the Federal Government must likewise be informed of every report by the Public Audit Office simultaneously with its submission to the

6. municipal council. The reports shall be published after submission to the municipal council.
7. The Public Audit Office shall also at the substantiated request of the Land Government examine the financial administration of municipalities with less than 10.000 inhabitants. Paras 1 and 3 to 6 of this Article are applied analogously. Each year only two such requests may be filed. Such requests are only allowed regarding such municipalities which, compared to other municipalities, show a conspicuous development in debts or liabilities.
8. The Public Audit Office has to examine the financial administration of certain municipalities with less than 10.000 inhabitants upon resolution of the Land Government. Paras 1 and 3 to 6 are to be applied under the proviso, that the report of the Public Audit Office also is to be communicated to the Diet. Each year only two such requests may be filed. Such requests are only allowed regarding such municipalities which, compared to other municipalities, show a conspicuous development in debts or liabilities.
9. The provisions holding good for the examination of the financial administration of municipalities shall apply analogously to the examination of the financial administration of municipal associations.

## Art 127b

1. The Public Audit Office is entitled to examine the financial administration of the professional corporations.
2. The professional corporations shall annually transmit to the Public Audit Office the budget estimates and the final budget accounts.
3. The examination by the Public Audit Office shall extend to arithmetical correctness, compliance with existing regulations, and the employment of thrift and efficiency in the financial administration; this examination does not however include resolutions by the competent authorities of the professional corporations governing the financial administration on behalf of tasks relating to representation of their members' interests.
4. The Public Audit Office shall notify the Chairman of the constituent authority (representative body) of the professional corporation of the result of the examination together with any possible opinion thereon to the constituent authority (representative body) of the professional corporation. The Public Audit Office shall at the same time inform likewise the authority competent at the highest level for supervision of the professional corporation as regards the result of its examination. The reports of the Public Audit Office shall be published after submission to the constituent authority (representative body).

## Art 127c

In case a land has established a Public Audit Office of the Land, the constitutional law of the Land may provide the following provisions:

1. a provision corresponding to Art 126a first phrase under the proviso, that Art 126a second phrase also applies in this case;
2. provisions corresponding to Art 127a para 1 to 6 concerning municipalities with less than 10.000 inhabitants;
3. provisions corresponding to Art 127a para 7 and 8 concerning municipalities with at least 10.000 inhabitants
4. (Note: Repealed by F.L.G. I No. 51/2012)

## Art 128

The more detailed provisions about the establishment and activity of the Public Audit Office will be laid down by Federal law.

# Chapter VII. Constitutional and Administrative Guarantees

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## A. Administrative jurisdiction

- Establishment of administrative courts

### Art 129

In all Laender exist Administrative Courts of the Land. For the Federation there is an Administrative Court of the Federation, to be named Federal Court of Administration and an Administrative Court of the Federation for Finance to be named Federal Financial Court.

- Establishment of administrative courts

### Art 130

1. The Administrative Courts pronounce judgement on complaints
  1. against rulings by administrative authorities for illegality;
  2. against the exercise of direct administrative power and compulsion for illegality
  3. on the ground of contravention of the onus for decision by an administrative authority
  4. against instructions under Art 81a para 4
2. Federal or Landes-Law may provide other competences of the Administrative Courts for decision on
  1. complaints for illegality of the conduct of an administrative authority in executing the law or
  2. complaints for illegality of conduct of a contract placing authority in matters of public contracts or
  3. disputes in civil service law matters of civil servants

In the matters of the execution of the Federation, not directly handled by Federal authorities, as well as in the matters of Art 11, 12, 14 para 2 and 3 and 14a para 3 and 4 Federal Laws under subpara 1 may only be published upon approval by the Laender.

3. Except in administrative penal proceedings and in legal matters pertaining to the competence of the Administrative Court of the Federation for Finance illegality does not exist to the extent the law permits the administrative authority to apply discretion and the authority has done so in the sense of the law.
4. The Administrative Court is to decide in the matter itself on complaints according to para 1 subpara 1 in administrative penal matters. The Administrative Court is to decide on complaints according to para 1 subpara 1 in other legal matters upon the merits itself
  1. the relevant facts have been established or
  2. the establishment of the relevant facts by the Administrative Court itself is in the interest of a speedy procedure or connected with substantial cost saving.
5. Excluded from the competence of the Administrative Courts are legal matters pertaining to the competence of the Courts of Justice or of the Administrative Court as long as nothing else is stipulated by this law.

### Art 131

1. To the extent paras 2 and 3 do not provide otherwise, the Administrative Courts of the Laender pronounce judgement on complaints according to Art 130 para 1.
2. To the extent para 3 does not provide otherwise, the Administrative Court of the Federation pronounces judgement on complaints according to Art 130 para 1 in legal matters, in matters of the execution of the Federation, directly executed by Federal authorities. To the extent a law provides the competence of Administrative Courts according to Art 130 para 2 subpara 2, the Administrative Court of the Federation pronounces judgement on complaints in legal matters

2. and matters of public contract placing, which pertain to execution by the Federation according to Art 14b para 2 subpara 1. To the extent a law provides the competence of Administrative Courts according Art 130 para 2 subpara 3, the Administrative Court of the Federation pronounces judgement on disputes in civil service law matters of civil servants
3. The Administrative Court of the Federation for Finance pronounces judgement according to Art 130 para 1 subpara 1 to 3 in legal matters, in matters of public duties (with the exception of administrative fees of the Federation, the Laender and municipalities) and of Financial Penal Law as well as in other matters determined by law, to the extent the matters named are directly handled by the revenue- or financial penal authorities of the Federation.
4. By Federal Law may be provided
  1. a competence of the Administrative Courts of the Laender: in legal matters, in matters according to para 2 und 3;
  2. a competence of the Administrative Courts of the Federation:
    - a. in legal matters in matters of environmental compatibility examinations for projects, where material effects on the environment are to be anticipated (Art 10 para 1 subpara 9 and Art 11 para 1 subpara 7);
    - b. in other legal matters in matters of the execution by the Federation, not directly handled by Federal authorities, as well as in the matters of Art 11, 12, 14 para 2 and 3 and 14a para 3.

Federal Laws under para 1 and para 2 subpara b may only be published upon approval by the Laender.

5. Landes-Law may provide a competence of the Administrative Courts of the Federation in legal matters, in matters of the autonomous sphere of competence of the Laender. Art 97 para 2 applies accordingly.
6. The Administrative Courts competent according to para 1 to 4 of this article pronounce judgement in matters on complaints in legal matters, in which a law provides the competence of an Administrative Court according to Art 130 para 1 subpara 1. To the extent no competence is given according to the first phrase, the Administrative Courts of the Laender pronounce judgement on such complaints.

## Art 132

1. Complaint against the ruling of an administrative authority for illegality may be raised by:
  1. someone who alleges infringement of his rights;
  2. the competent Federal Minister in legal matters in matters of Art 11, 12, 14 para 2 and 3 and 14a para 3 and 4 or in legal matters, in which the ruling of a Landes school-board is based on the resolution of a committee
2. Against the exercise of direct administrative power or compulsion complaint may be raised by someone who alleges infringement of his rights because of them.
3. For breach of onus to take a decision appeal may be raised by someone who alleges as party in an administrative procedure to be entitled to get a decision.
4. The Land school board may raise appeal against instructions according to Art 81a para 4 on the basis of a resolution of the committee.
5. Federal and Laender Laws provide who can raise complaint for illegality in other cases than those named in para 1 and 2 and in those cases, in which the law provides the competence of Administrative Courts according to Art 130 para 2.
6. In the matters of the own sphere of competence of the municipality, complaint may be raised before the Administrative Court only after all appeals have been exhausted.

## Art 133

1. The Administrative Court pronounces judgement on:
  1. revisions against the decision of an Administrative Court for illegality;
  2. motions to set a deadline for violation of the onus to decide by an Administrative Court;
  3. conflicts of competence between Administrative Courts or between an Administrative Court and the (Federal) Administrative Court.

2. Federal or Landes-Law may provide other competences of the Administrative Court to decide on requests by a court of justice to establish the illegality of an ordinance or the decision of an Administrative Court.
3. Illegality does not exist to the extent the Administrative Court has applied discretion in the sense of the law.
4. Revision against the decision of an Administrative Court is admissible, if the solution depends from a legal question of essential importance, mainly because the decision deviates from the established court practise of the (Federal) Administrative Court, such established court practise does not exist or the legal question to be solved has not been answered in uniform manner by the previously established court practise of the (Federal) Administrative Court. If the decision only is on a small fine, Federal Law may provide that the revision is inadmissible.
5. Excluded from the competence of the (Federal) Administrative Court are legal matters pertaining to the competence of the Constitutional Court.
6. Revision against a decision of an Administrative Court for illegality may raise:
  1. who alleges to have been infringed in his rights by the decision;
  2. the authority involved in the proceedings before the Administrative Court;
  3. the competent Federal Minister in the legal matters named in Art 132 para 1 subpara 2;
  4. the Land school-board on the basis of the resolution of the committee in the legal matters named in Art 132 para 4.
7. For violation of the onus to decide someone may request a deadline who alleges to be entitled as party in the proceedings before the Administrative Court to claim the onus to decide.
8. Federal or Laender-Laws provide who can raise revision for illegality in other cases than those named in para 6.
9. The provisions of this article applicable to their decisions are to be applied to the resolutions of the Administrative Court accordingly. The specific Federal Law determining the organization and the procedure of the (Federal) Administrative Court provides to which extent revision may be raised against resolutions of the Administrative Courts.

## Art 134

1. The Administrative Courts and the (Federal) Administrative Court each consist of one President, one Vice-President and the requisite number of other members.
2. The President, the Vice-President and the other members of the Administrative Court of a Land are appointed by the government of the Land; to the extent it does not concern the position of the President or the Vice-President, it has to call for proposals of the plenary assembly of the Administrative Court or of a committee to be elected among its members, consisting of the President, the Vice-President and the minimum of five other members of the Administrative Courts of the Land, listing three candidates. The members of the Administrative Courts of the Laender must have completed legal studies or legal- and political science studies and have had at least five years of legal professional experience.
3. The President, the Vice-President and the other members of the Administrative Courts of the Federation are appointed by the Federal President on the proposal of the Federal Government; to the extent it does not concern the position of the President or the Vice-President, it has to call for proposals of the plenary assembly of the of the Administrative Court of the Federation or of a committee to be elected among its members, consisting of the President, the Vice-President and the minimum of five other members of the Administrative Court of the Federation, listing three candidates. The members of the Administrative Court of the Federation must have completed legal studies or legal- and political science studies and have had at least five years of legal professional experience, the members of the Administrative Court of the Federation for Finance must have completed an appropriate study and have had at least five years of legal professional experience..
4. The President, the Vice-President and the other members of the (Federal) Administrative Court are appointed by the Federal President on the proposal of the Federal Government; to the extent it does not concern the position of the President or of the Vice-President it renders its proposals on the basis of the plenary assembly of the (Federal) Administrative Court or of a committee to be elected among its members, consisting of the President, the Vice-President and at least five other members of the (Federal) Administrative Court, listing three

- Administrative court selection
- Eligibility for administrative judges

- Eligibility for administrative judges
- Administrative court selection



- Outside professions of legislators
  - Eligibility for administrative judges
4. candidates. The members of the (Federal) Administrative Court must have completed legal studies or legal- and political science studies and have had at least ten years of legal professional experience. At least twenty-five percent should come from professional positions in the Laender, preferably the administrative service of the Laender.
  5. Members of the Federal Government, a government of a Land, the National Council, the Federal Council, a Diet or the European Parliament cannot belong to the Administrative Courts and the (Federal) Administrative Court, also members of another general representative body cannot belong to the (Federal) Administrative Court; the incompatibility lasts for members of a general representative body or of the European Parliament, having been elected for a certain legislature- or function period, till the end of the legislature-or function period even in case of early resignation of the mandate.
  6. Who has had one of the functions named in para 5 during the last five years cannot be elected President or Vice-President of an Administrative Court or of the (Federal) Administrative Court.
  7. The members of the Administrative Courts and of the (Federal) Administrative Court are judges. Art 87 para 1 and 2 and Art 88 para 1 and 2 are to be applied with the proviso, that the age limit at which the members of the Administrative Courts of the Laender retire for good or their service status ends, is determined by Landes-Law.
  8. The President of the (Federal) Administrative Court supervises its employees.

### Art 135

1. The Administrative Courts pronounce judgement by single judges. The law on the procedures by the Administrative Courts or Federal or Landes-Law may provide, that the Administrative Court pronounces judgement through chambers. The size of the chambers is determined by the law on the organization of the Administrative Court. The chambers are to be constituted by the plenary assembly or by a committee to be elected among its members, consisting of the President, the Vice-President and a number of other members of the Administrative Court, to be determined by law, among the members of the Administrative Court, and, to the extent Federal-or Landes-Law provides the participation of expert lay-judges in the jurisdiction among a number, to be determined by the law, of expert lay-judges. To the extent a Federal Law provides that an Administrative Court of the Land shall pronounce judgement in chambers or that expert lay-judges participate in the jurisdiction, the approval of the respective Laender must be obtained. The (Federal) Administrative Court pronounces judgement by chambers to be constituted by the plenary assembly or a committee to be elected among its members, consisting of the President, the Vice-President and a number of other members of the (Federal) Administrative Court, to be determined by law, among the members of the (Federal) Administrative Court.
2. The business to be done by the Administrative Court shall be allocated to single judges and the chambers for the period provided by law in advance by the plenary assembly or a committee to be elected among its members, consisting of the President, the Vice-President and a number of other members of the Administrative Court to be determined by law. The business to be done by the (Federal) Administrative Court shall be allocated to the chambers for the period provided by law in advance by the plenary assembly or a committee to be elected among its members, consisting of the President, the Vice-President and a number of other members of the (Federal) Administrative Court to be determined by law.
3. A matter devolving upon a member may only be removed from him by the organ in charge according to para 2 and only in case of his being prevented or if he is impeded to handle it within due time because of the extent of his tasks.
4. Art 89 is to be applied accordingly to Administrative Courts and the (Federal) Administrative Court.

### Art 135a

1. The law on the organization of the Administrative Court may provide that certain kinds of businesses, which shall be exactly specified, can be assigned to specially trained persons who are not judges.

2. The member of the Administrative Court competent in accordance with the allocation of business can however at any time reserve to himself or take over discharge of such business.
3. The employees who are not judges are in the performance of business only bound by instructions from the member of the Administrative Court competent in accordance with the allocation of business. Art 20 para 1 third sentence shall apply.

### Art 136

1. The organization of the Administrative Courts of the Laender is determined by Landes-Law, the organization of the Administrative Courts of the Federation by Federal Law.
2. The procedure of the Administrative Courts, with the exception of the Administrative Court of the Federation for Finance shall be governed by a separate Federal Law. The Federation has to grant the Laender opportunity to participate in the preparation of such bill. The Federal- or Landes-Law may provide provisions on the procedure of the Administrative Courts, to the extent necessary to organize the matter or the separate Federal Law mentioned in the first phrase gives authorisation to do so.
3. The procedure of the Administrative Court of the Federation for Finance will be governed by Federal Law. Federal Law may also determine the revenue procedure before the Administrative Courts of the Laender.
4. The organization and the procedure of the (Federal) Administrative Court are governed by a separate Federal Law.
5. The plenary assemblies of the Administrative Courts and of the (Federal) Administrative Court adopt Standing Orders on the basis of the laws enacted according to the paras above.

## B. Constitutional Jurisdiction

### Art 137

The Constitutional Court pronounces on pecuniary claims against the Federation, the Laender, the municipalities and municipal associations which cannot be settled by ordinary legal process nor be liquidated by the ruling of an administrative authority.

### Art 138

1. The Constitutional Court pronounces on conflicts of competence
  1. between courts and administrative authorities;
  2. between Courts of Justice and Administrative Courts or between the (Federal) Administrative Court as well as between the Constitutional Court itself and all other Courts;
  3. between the Federation and a Land or between the Laender amongst themselves.
2. The Constitutional Court furthermore determines at the application of the Federal Government or a Land Government whether an act of legislation or execution falls into the competence of the Federation or the Laender.

### Art 138a

1. The Constitutional Court establishes on application by the Federal Government or a Land Government concerned whether an agreement within the meaning of Art 15a para 1 exists and whether the obligations arising from such an agreement, save in so far as it is a matter of pecuniary claims, have been fulfilled.
2. If it is stipulated in an agreement within the meaning of Art 15a para 2, the Court also establishes on application by a Land Government concerned whether such an agreement exists and whether the obligations arising from such an agreement, save in so far as it is a matter of pecuniary claims, have been fulfilled.

### Art 139

1. The Constitutional Court pronounces on illegality of ordinances

- Establishment of constitutional court
- Constitutional court powers

- Constitutional court powers

- Constitutional court powers

1.
  1. on application by a court
  2. ex officio insofar as the court will have to apply the ordinance in a suit pending before him
  3. on application by a person who alleges to have been violated in her rights directly by the illegality, if the ordinance has become effective without a judicial decision having been rendered or a ruling having been rendered has become effective for this person;
  4. upon application of a person, who claims to be hurt as a party in its rights because of a legal issue decided by a general court in first instance with the application of an illegal ordinance, on the occasion of an appeal against this decision;
  5. of a Federal authority also upon application by a Land Government or the Ombudsman;
  6. the authority of a Land also on application of the Federal Government or, to the extent the constitutional law of a Land has declared competent the Ombudsman also for the sphere of competence of the administration of the respective Land, the Ombudsman or an institution according to Art 148i para 2.
  7. a supervisory authority according to Art 119a para 6 also on application of the municipality whose ordinance has been rescinded.

Article 89 para 3 is to be applied accordingly to applications according to subpara 3 and 4.

- 1a. In case it is necessary to secure the purpose of the proceedings before a general court, the application can be declared invalid according to Paragraph 1 subparagraph 4 by federal law. Federal law stipulates the impact of the petition according to Paragraph 1 Sentence 4.
- 1b. The Constitutional Court may decide against the consideration of an application according to Paragraph 1 Subparagraph 3 or 4 until the trial by order, in case it does not have sufficient chances of success."
2. If the litigant in a suit lodged with the Constitutional Court, entailing application of an ordinance by the Constitutional Court, receives satisfaction, the proceedings initiated to examine the ordinance's legality shall nevertheless continue.
3. The Constitutional Court may rescind an ordinance as contrary to law only to the extent that its rescission was expressly requested or he would have had to apply it in the pending suit. If the Court reaches the conclusion that the whole ordinance
  1. has no foundation in law,
  2. was issued by an authority without competence in the matter, or
  3. was published in a manner contrary to law,

it shall rescind the whole ordinance as illegal. This does not hold good if rescission of the whole ordinance manifestly runs contrary to the legitimate interests of the litigant who has filed an application pursuant to the para 1 subpara 3 or 4 above or whose suit has been the occasion for the ex officio initiation of examination proceedings into the ordinance.

4. If the ordinance has at the time of the Constitutional Court's delivery of its judgment already been repealed and the proceedings were initiated ex officio or the application was filed by a court or an applicant alleging infringement of his personal rights through the ordinance's illegality the Court must pronounce whether the ordinance contravened the law. Para 3 above applies analogously.
5. The judgment by the Constitutional Court which rescinds an ordinance as contrary to law imposes on the highest competent Federal or Land authority in the obligation to publish the rescission without delay. This applies analogously in the case of a pronouncement pursuant to para 4 above. The rescission enters into force upon expiry of the day of publication if the Court does not set a deadline, which may not exceed six months or if legal dispositions are necessary 18 months, for the rescission.
6. If an ordinance has been rescinded on the score of illegality or if the Constitutional Court has pursuant to para 4 above pronounced an ordinance to be contrary to law, all courts and administrative authorities are bound by the Court's decision, the ordinance shall however continue to apply to the circumstances effected before the rescission, the case in point excepted, unless the Court in its rescissory judgment decides otherwise. If the Court has in its

6. rescissory judgment set a deadline pursuant to para 5 above, the ordinance shall apply to all the circumstances effected, the case in point excepted, till the expiry of this deadline.
7. For legal issues, which caused the issuing of an application according to Paragraph 1 Subparagraph 4, federal law stipulates that the decision of the Constitutional Court which repealed the ordinance as illegal, allows for a new decision concerning this legal issue. This applies accordingly for the case of a dictum according to Paragraph 4.

### Art 139a

The Constitutional Court pronounces on the illegality of pronouncements on the republication of a law (state treaty). Art 139 is to be applied accordingly.

### Art 140

#### 1. The Constitutional Court pronounces on the unconstitutionality

##### 1. of laws

- a. on application of a court;
- b. ex officio in so far as he will have to apply such a law in a suit pending before him;
- c. on application by a person who alleges to have been violated in her rights directly by unconstitutionality, if the ordinance has become effective without a judicial decision having been rendered or a ruling having been rendered has become effective for this person;
- d. upon application of a person, who claims to be hurt as a party in its rights because of a legal issue decided by a general court in first instance with the application of an unconstitutional law, on the occasion of an appeal against this decision

2. of Federal Laws also on application by the government of a Land, a third of the members of the National Council or a third of the members of the Federal Council.

3. of Laws of a Land also on application by the Federal Government or, if the Constitutional Law of a Land so provides, on application of a third of the members of the Diet.

Article 89 para 3 is to be applied accordingly to applications according to para 1 subpara c and d.

- 1a. In case it is necessary for the protection of the purpose of the proceedings before a general court, the issuing of the application according to Paragraph 1 Subparagraph 1 letter d can be declared invalid by federal law. Federal law may stipulate the impact of an application according to Paragraph 1 Subparagraph 1.
- 1b. The Constitutional Court may decide against the consideration of an application according to Paragraph 1 Subparagraph 1 letter c or d, in case it does not have sufficient chances of success.
2. If the litigant in a suit lodged with the Constitutional Court, entailing application of a law by the Court, receives satisfaction, the proceedings initiated to examine the law's constitutionality shall nevertheless continue.
3. The Constitutional Court may rescind a law as unconstitutional only to the extent that its rescission was expressly requested or the Court would have to apply the law in the suit pending with it. If however the Court concludes that the whole law was enacted by a legislative authority unqualified in accordance with the allocation of competence or published in an unconstitutional manner, it shall rescind the whole law as unconstitutional. This does not hold good if rescission of the whole law manifestly runs contrary to the legitimate interests of the litigant who has filed an application pursuant to para 1 sentence 1 subpara c or d above or whose suit has been the occasion for the ex officio initiation of examination proceedings into the law.
4. If the law has at the time of the Constitutional Court's delivery of its judgment already been repealed and the proceedings were initiated ex officio or the application filed by a court or an applicant alleging infringement of personal rights through the law's unconstitutionality, the Court must pronounce whether the law was unconstitutional. Para 3 above applies analogously.
5. The judgment by the Constitutional Court which rescinds a law as unconstitutional imposes on the Federal Chancellor or the competent Governor

- Constitutional interpretation
- Constitutionality of legislation

- Federal review of subnational legislation

- Constitutionality of legislation

- Constitutional court powers
  - Legal status of treaties
5. the obligation to publish the rescission without delay. This applies analogously in the case of a pronouncement pursuant to para 4 above. The rescission enters into force upon expiry of the day of publication if the Court does not set a deadline for the rescission. This deadline may not exceed eighteen months.
  6. If a law is rescinded as unconstitutional by a judgment of the Constitutional Court, the legal provisions rescinded by the law which the Court has pronounced unconstitutional become effective again unless the judgment pronounces otherwise, on the day of entry into force of the rescission. The publication on the rescission of the law shall also announce whether and which legal provisions again enter into force.
  7. If a law has been rescinded on the score of unconstitutionality or if the Constitutional Court has pursuant to para 4 above pronounced a law to be unconstitutional, all courts and administrative authorities are bound by the Court's decision. The law shall however continue to apply to the circumstances effected before the rescission the case in point excepted, unless the Court in its rescissory judgment decides otherwise. If the Court has in its rescissory judgment set a deadline pursuant to para 5 above, the law shall apply to all the circumstances effected, the case in point excepted till the expiry of this deadline.
  8. For legal issue, which were the reason for the application according to Paragraph 1 Subparagraph 1 letter d, it has to be stipulated by federal law, that the decision of the Constitutional Court which repeals the law as unconstitutional, allows for a new decision of this legal issue. This applies accordingly for the case of a pronouncement according to Paragraph 4.

## Art 140a

The Constitutional Court pronounces whether state treaties are contrary to law. Art 140 shall apply to political, to law-modifying and to law-amending state treaties and to state treaties modifying the contractual bases of the European Union, Art 139 to all other state treaties with the following proviso,

1. A state treaty of which the Constitutional Court establishes, that it is contrary to law or unconstitutional shall not be applied any more by the authorities competent for its execution from the expiry of the day of the judgment's publication unless the Constitutional Court determines a deadline prior to which the state treaty shall continue to be applied; such deadline must not exceed two years for the political, law-modifying and law-amending state treaties and the state treaties modifying the contractual bases of the European Union and one year in the case of all other state treaties.
2. In addition, a provision, that the state treaty is to be implemented by issuing ordinances or a resolution, that the state treaty is to be implemented by the issuance of laws, becomes ineffective upon expiration of the day of the judgment's publication.

## Art 141

- Constitutional court powers
  - Removal of individual legislators
1. The Constitutional Court pronounces upon
    - a. challenges to the election of the Federal President and elections to the general representative bodies, the European Parliament and the constituent authorities (representative bodies) of statutory professional associations;
    - b. challenges to elections to a Land Government and to municipal authorities entrusted with executive power;
    - c. application by a general representative body for the loss of seat by one of its members; application by at least the half of the members of the European Parliament having been elected in Austria for a loss of seat by such a member of the European Parliament;
    - d. application by a Municipal Council for loss of seat of a member of the organ of the municipality, in charge of execution, and by a constituent organ (representative body) of a statutory professional association for loss of seat by one of the members of such organ;
    - e. on the challenge of the result of referenda, plebiscites, public opinion polls and European Citizen Action Groups;
    - f. on the registration of persons in electoral registers and deletion of persons from electoral registers;

1. g. on the challenge of individually appealable rulings and decisions of administrative authorities and as far as established by federal or Laender law – of the administrative courts in the cases of subpara a to f.

The challenge according to subpara a, b, e, f and g can be based on the alleged illegality of the procedure, the application according to subpara c and d on a reason provided by law for the loss of membership in a general representative body, in the European Parliament, in a municipal authority entrusted with executive power, or in a constituent authority (representative body) of a statutory professional association. The Constitutional Court shall allow challenge if the alleged illegality has been proven and was of influence on the result of the procedure. In proceedings before the administrative authority the general representative body and the statutory organ (representative body) of the statutory professional association has litigant status.

2. If a challenge pursuant to para 1 subpara a above is allowed and it thereby becomes necessary to hold the election to a general representative body, to the European Parliament or to a constituent authority of a statutory professional association in whole or in part again, the representative body's members concerned lose their seat at the time when it is assumed by those elected at the ballot which has to be held within a hundred days after delivery of the Constitutional Court's decision.
3. (Note: Repealed by F.L.G. I No. 51/2012)

- Constitutional court powers

## Art 142

1. The Constitutional Court pronounces on suits which predicate the constitutional responsibility of the highest Federal and Land authorities for legal contraventions culpably ensuing from their official activity.

2. Suit can be brought:

- a. against the Federal President, for contravention of the Federal Constitution: by a vote of the Federal Assembly;
- b. against members of the Federal Government and the authorities placed with regard to responsibility on an equal footing with them, for contravention of the law: by a vote of the National Council;
- c. against an Austrian representative in the Council for contravention of law in matters where legislation would pertain to the Federation: by a vote of the National Council for contravention of law in matters where legislation would pertain to the Laender: by identically worded votes of all the Diets;
- d. against members of a Land Government and the authorities placed by the present Law or the Land constitution with regard to responsibility on an equal footing with them, for contravention of the law: by a vote of the competent Diet;
- e. against a Governor, his deputy (Art 105 para 1) or a member of the Land Government (Art 103 paras 2 and 3) for contravention of the law as well as for non-compliance with ordinances or other directives (instructions) of the Federation in matters pertaining to the indirect Federal administration, in the case of a member of the Land Government also with regard to instructions from the Governor in these matters: by a vote of the Federal Government;
- f. against the authorities of the Federal capital Vienna, in so far as within its autonomous sphere of competence they perform functions from the domain of the Federal executive power, for contravention of the law: by a vote of the Federal Government;
- g. against a Governor for non-compliance with an instruction pursuant to Art 14 para 8: by a vote of the Federal Government;
- h. against a president or executive president of a Land school board, for contravention of the law as well as for noncompliance with ordinances or other directives (instructions) of the Federation: by a vote of the Federal Government.
- i. against members of a Land Government for contravention of the law and for impediment of the powers conferred by Art 11 para 9, in so far as matters of Art 11 para 1 subpara 8 are concerned: by a vote of the National Council or of the Federal Government.

3. If pursuant to para 2 subpara e above the Federal Government brings a suit only against a Governor or his deputy and it is shown that another member of the Land Government in accordance with Art 103 para 2 concerned with matters

- Head of state removal

- Cabinet removal
- Head of government removal

- Head of government removal
- Head of state removal
- Cabinet removal

3. pertaining to the indirect Federal administration is guilty of an offence within the meaning of para 2 subpara e above, the Federal Government can at any time pending the passing of judgment widen its suit to include this member of the Land Government.
4. The condemnation by the Constitutional Court shall pronounce a forfeiture of office and, in particularly aggravating circumstances, also a temporary forfeiture of political rights. In the case of minor legal contraventions in the instances mentioned in para 2 subparas c, e, g and h above the Court can confine itself to the statement that the law has been contravened. From forfeiture of the office of president of the Land school board ensues forfeiture of the office with which pursuant to Art 81a para 3 subpara b it is linked.
5. The Federal President can avail himself of the right vested in him in accordance with Art 65 para 2 subpara c only on the request of the representative body or the representative bodies which voted for the filing of the suit, but if the Federal Government has voted for the filing of the suit only at its request, and in all cases only with the approval of the defendant.

- Constitutional court powers

### Art 143

A suit can be brought against the persons mentioned in Art 142 also on the score of actions involving penal proceedings connected with the activity in office of the individual to be arraigned. In this case competence lies exclusively with the Constitutional Court; any investigation already pending in the ordinary criminal courts devolves upon it. The Court can in such cases, in addition to Art 142 para 4, apply the provisions of the criminal law.

- Constitutional court powers

### Art 144

1. The Constitutional Court pronounces on rulings by an Administrative Court in so far as the appellant alleges an infringement by the ruling of a constitutionally guaranteed right or on the score of an illegal ordinance, an illegal pronouncement on the republication of a law (state treaty), an unconstitutional law, or an unlawful treaty.
2. The Constitutional Court can reject to deal with a complaint till the hearing by resolution if it does not sufficiently seem to be successful or if the decision cannot be expected to clarify a constitutional problem.
3. In case the Constitutional Court finds that the decision of the Administrative Court has not violated a right in the sense of para 1, it has, on appeal by the appellant, to decide whether the appellant has been violated in another right, to forward the complaint to the (Federal) Administrative Court. To resolutions according para 2 the first phrase is to be applied accordingly.
4. To resolutions of the Administrative Courts the provisions of this article to be applied to their decisions are to be applied accordingly. The specific law determining the organization and the procedure of the Constitutional Court provides, to which extent complaints may be raised against resolutions of the Administrative Court.
5. To the extent the decision or the resolution of the Administrative Court concerns the admissibility of the revision, an appeal according to para 1 is not admissible.

- Constitutional court powers
- International law

### Art 145

The Constitutional Court pronounces judgment on contraventions of international law in accordance with the provisions of a special Federal law.

### Art 146

1. The enforcement of judgments pronounced by the Constitutional Court made in accordance with Art 126a, Art 127c subpara 1 and Art 137 is implemented by the ordinary courts.
2. The enforcement of other judgments by the Constitutional Court is incumbent on the Federal President. Implementation shall in accordance with his instructions lie with the Federal or Laender authorities, including the Federal Army, appointed at his discretion for the purpose. The request to the Federal President for the enforcement of such judgments shall be made by the Constitutional Court. The afore-mentioned instructions by the Federal President require, if it is a matter of

2. enforcements against the Federation or against Federal authorities, no countersignature in accordance with Art 67.

## Art 147

1. The Constitutional Court consists of a President, a Vice-President, twelve additional members and six substitute members.
2. The President, the Vice-President, six additional members and three substitute members are appointed by the Federal President on the recommendation of the Federal Government; these members and the substitute members shall be selected from among judges, administrative officials, and professors holding a chair in law. The remaining six members and three substitute members are appointed by the Federal President on the basis of proposals submitted by the National Council for three members and two substitute members and by the Federal Council for three members and one substitute member. Three members and two substitute members must have their domicile outside the Federal capital, Vienna. Administrative officials on active service who are appointed members or substitute members shall be exempted, with their pay terminating, from all official duties. This shall not apply to administrative officials appointed substitute members who for the term of such exemption have been freed from all activities in the pursuit of which they are bound by instructions.
3. The members and substitute members of the Constitutional Court must have completed legal studies or studies in law and political science and have had ten years of professional experience.
4. The following cannot belong to the Constitutional Court: members of the Federal Government, or a Land Government furthermore members of a general representative body or of the European Parliament; for members of a general representative body or of the European Parliament; who have been elected for a fixed term of legislation or office such incompatibility continues until the expiry of that term of legislation or office. Finally persons who are in the employ of or hold office in a political party cannot belong to the Constitutional Court.
5. Anyone who during the preceding five years has exercised one of the functions specified in para 4 above cannot be appointed President or Vice-President of the Constitutional Court.
6. Art 87 paras 1 and 2 and Art 88 para 2 apply to members and substitute members of the Constitutional Court; detailed provisions will be prescribed in the Federal law to be promulgated pursuant to Art 148. The 31 December of the year in which the member or the alternate member completes his seventieth year of life is fixed as the age limit on whose attainment his term of office ends.
7. If a member or substitute member disregards without satisfactory excuse three successive requests to attend a hearing of the Constitutional Court, the Court shall formally establish the fact after listening to his testimony. Establishment of the fact entails loss of membership or the status of substitute membership.
8. The President of the Constitutional Court supervises the employees of the Constitutional Court.

- Constitutional court selection
- Eligibility for const court judges

- Eligibility for const court judges

- Outside professions of legislators

- Eligibility for const court judges

- Mandatory retirement age for judges

## Art 148

Detailed provisions about the organization and procedure of the Constitutional Court will be prescribed by a special Federal law and in Standing Orders to be voted by the Constitutional Court on the basis of this.

# Chapter VIII. Ombudsman board

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- Ombudsman

## Art 148a

1. Everyone can lodge complaint with the ombudsman board (Commission for Complaints from the Public) against alleged maladministration by the Federation, including its activity as a holder of private rights, mainly for alleged violation of human rights, provided that they are affected by such maladministration and in so far as they do not or no longer have recourse to legal remedy. All such complaints must be investigated by the ombudsman board. The complainant



1. shall be informed of the investigation's outcome and what action, if necessary, has been taken.
2. The ombudsman board is ex officio entitled to investigate its suspicions of maladministration by the Federation including its activity as a holder of private rights, mainly of violations of human rights it assumes.
3. For the protection and the advancement of human rights it is incumbent on the Ombudsman Board and the commissions appointed by it (Art 148h para 3) in the area of the administration of the Federation including its activity as holder of private rights
  1. to visit and inspect the location of deprivation of liberty,
  2. to watch and check in advisory manner the conduct of the organs authorized to exert direct administrative power and compulsion as well as
  3. to check respectively visit certain institutions and programs for handicapped persons
4. Notwithstanding para 1 anyone can complain with the Ombudsman board for alleged delay of a Court to hear a case, if being personally affected. Para 2 applies accordingly.
5. It is moreover incumbent on the ombudsman board to assist in the disposal of petitions and group memorials presented to the National Council. The Federal law on the National Council's Standing Orders stipulates the details.
6. The ombudsman board is independent in the exercise of its authority.

## Art 148b

1. All Federal, Laender, municipal authorities and municipal associations as well as other self-administrating bodies shall support the ombudsman board in the performance of its tasks, allow it inspection of its records, and upon request furnish the information required. Official confidentiality is inoperative towards the ombudsman board.
2. The ombudsman board must observe official confidentiality to the same degree as the authority whom it has approached in the fulfilment of its tasks. The ombudsman board is however bound by the observation of official confidentiality in its reports to the National Council only in so far as this is requisite on behalf of the interest of the parties concerned or of national security.
3. Paras 1 and 2 apply accordingly to the members of the commissions and the members and substitute members of the Human Rights Council.

- Ombudsman

## Art 148c

The ombudsman board can issue to the authorities entrusted with the Federation's highest administrative business recommendations on measures to be taken in or by reason of a particular case. In matters of autonomous administration or of administration by agents not subject to directives the ombudsman board can issue recommendations to the autonomous administrative authority or to the agency not subject to directives; the Federation's highest administrative authority shall likewise have its attention drawn to such recommendations, the authority concerned must within a deadline to be settled by Federal law either conform to the recommendations and inform the ombudsman board accordingly or state in writing why the recommendations have not been complied with. The Ombudsman board may in a specific case at the occasion of a certain case request a deadline to cure the delay by a court (Art 148a para 4) and suggest measures of supervisory control.

## Art 148d

1. The ombudsman board shall annually render the National Council and the Federal Council a report on its activity. In addition, the ombudsman board can report on singular observations any time to the National Council and the Federal Council. The reports by the ombudsman board, after having been presented to the National Council and the Federal Council, are to be published.
2. The members of the ombudsman board are entitled to participate in the debates by the National Council and the Federal Council and by their committees (sub-committees) on the ombudsman board's reports and on each occasion to be given at their request a hearing. The members of the ombudsman board shall have this right also in respect of the debates by the National Council and its

- committees (sub-committees) on the draft Federal Finance Law's chapter subdivisions concerning the ombudsman board. Details are stipulated in the Federal law on the National Council's Standing Orders and the Standing Orders of the Federal Council.

## Art 148e

(Note: Repealed by F.L.G. I No. 51/2012)

- Constitutional court powers

## Art 148f

If differences of opinion arise between the ombudsman board and the Federal Government or a Federal Minister on the interpretation of legal provisions. The Constitutional Court on application by the Federal Government or the ombudsman board decides the matter.

- Ombudsman

## Art 148g

- The ombudsman board has its seat in Vienna and consists of three members one of whom acts in turn as chairman. The term of office lasts six years. Re-election of the ombudsman board's members more than once is inadmissible.
- The Ombudsman board members are elected by the National Council on the basis of a joint recommendation drawn up by the Main Committee in the presence of at least half its members. Each of the three parties with the largest number of mandates in the National Council is entitled to nominate one member for this recommendation. In case of equal number of mandates the number of votes cast in the last National Council election is decisive. The members of the ombudsman board render an affirmation to the Federal President before their assumption of office.
- The ombudsman board chairmanship rotates annually between the members in the sequence of the number of mandates, in case of equal number of mandates in the sequence of number of votes possessed by the parties who have nominated them. This sequence remains unchanged during the ombudsman board's term of office.
- Should an ombudsman board member retire prematurely, the party represented in the National Council which nominated this member shall nominate a new member. The new election for the remaining term of office shall be effected pursuant to para 2 above. The allocation of business in force is to be applied to the new member till an eventual new allocation of business is rendered.
- Ombudsman board members must be eligible for the National Council and have knowledge of the organization and functioning of administration and knowledge in the field of human rights; during their service in office they may belong neither to a general representative body nor to the European Parliament, not be member of the Federal Government or the government of a Land and not practise any other profession.

- Outside professions of legislators

- Ombudsman

## Art 148h

- Ombudsman board officials are appointed by the Federal President on the recommendation and with the countersignature of the ombudsman board chairman. The Federal President can however authorize him to appoint officials in certain categories. Auxiliary personnel is appointed by the chairman who is to this extent the highest administrative authority and exercises these powers in his own right.
- The Federation's service prerogative with regard to ombudsman board employees is exercised by the ombudsman board chairman.
- In order to fulfill the tasks according to Art 148a para 3 the ombudsman board has to appoint commissions and create a Human Rights Council as its advisor. The Human Rights Council consists of a Chairman, a Deputy Chairman and other members and substitute members being appointed by the ombudsman board. Federal Law provides to which extent the ombudsman board in appointing members and substitute members of the Human Rights Council is bound by proposals of other institutions. The Chairman, the Deputy Chairman and the

- Human rights commission

3. other members of the Human Rights Council are not bound by any instructions in exerting their activity.
4. The ombudsman board resolves Standing Orders and on allocation of business, which mainly has to provide, which tasks are to be handled individually by the members of the ombudsman board. The resolution on the Standing Orders and the allocation of business requires unanimity of the members of the ombudsman board.

## Art 148i

1. The Laender can by Land constitutional law declare the ombudsman board competent also in the sphere of the particular Land's administration. In such case Art 148f shall apply analogously.
2. If Laender create agencies in the sphere of Land administration with tasks similar to the ombudsman board, Land constitutional law can prescribe a provision corresponding to Art 148f above.
3. A Land not making use of the authorization of para 1 regarding the tasks according to Art 148a para 3, has to create by Constitutional Law of the Land an agency for tasks similar to Art 148a para 3 for the sphere of the administration of the Land and to provide the corresponding provisions in order to handle the tasks according to Art 148c and Art 148d.

## Art 148j

Detailed provisions relating to the implementation of this chapter shall be made by Federal law.

- Transitional provisions

# Chapter IX. Final Provisions

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## Art 149

1. In addition to the present law, the following laws, with the modifications necessitated by this law, shall within the meaning of Art 44 para 1 be regarded as constitutional law:
  - Basic Law of 21 December 1867, RGrBl. Subpara 142, on the general rights of nationals in the kingdoms and Laender represented in the Council of the Realm;
  - Law of 27. October 1862, RGrBl. Subpara 88, on protection of the rights of the home;
  - Resolution of the Provisional National Assembly of 30. October 1918, StGrBl. Subpara 3;
  - Law of 3. April 1919, StGrBl. Subpara 209, respecting the banishment and expropriation of the House of Hapsburg-Lorraine;
  - Law of 3. April 1919. StGrBl. Subpara 211, on the abolition of the nobility, the secular orders of chivalry, male and female, and of certain titles and dignities;
  - Section V of Part III of the Treaty of Saint-Germain of 10. September 1919, StGrBl. Subpara 303 of 1920.
2. Art 20 of the basic law of 21. December 1867, RGrBl. No. 142 as well as the law of 5. May 1869, RGrBl. No. 66, issued on the basis of this Article, cease to be effective.

## Art 150

1. The transition to the Federal Constitution introduced by this law will be prescribed in a special law entering into force simultaneously with the present law.
2. Laws in accordance with a new formulation of federal constitutional law provisions may be issued as from the promulgation of the constitutional law rendering the change effective. They may not however enter into force prior to the entry into force of the new federal constitutional legal provisions in so far as they do not solely stipulate measures requisite for their incipient implementation upon the entry into force of the new federal constitutional law provisions.

## Art 151

1. Art 78d and Art 118 para 8, as formulated in the Federal constitutional law published in BGBl. Subpara 565 of 1991, enter into force on 1. January 1992. The existence of constabularies existent on 1. January 1992 remains unaffected; this provision enters into force on 1. January 1992.
2. Art 10 para 1 subpara 7, Art 52a, Arts. 78a to 78c, Art 102 para 2 as well as the designation changes in Chapter III and in Art 102, as formulated in the Federal constitutional law published in BGBl. Subpara 565 of 1991, enter into force on 1. May 1993.
3. Art 102 para 5 second sentence as well as paras 6 and 7 are repealed as of midnight 30. April 1993. The words ", excluding the local security administration," in Art 102 para 2 are repealed as of midnight 30. April 1993.
4. Art 26, Art 41 para 2, Art 49b para 3, Art 56 paras 2 to 4, Art 95 paras 1 to 3, Art 96 para 3, and moreover the new designation of para 1 in Art 56, as formulated in the Federal constitutional law published in BGBl. Subpara 470 of 1992, enter into force on 1. May 1993.
5. Art 54, as formulated in the Federal constitutional law published in BGBl. Subpara 868 of 1992, enters into force on 1. January 1993.
6. The following provisions, as formulated in the Federal constitutional law published in BGBl. Subpara 508 of 1993, enter into force as follows:
  1. Art 10 para 1 subpara 9, Art 11 para 1 subpara 7 as well as Art 11 paras 6, 7, 8 and 9 on 1. July 1994;
  2. Art 28 para 5, Art 52 para 2, the designation of the former Art 52 paras 2 and 3 as paras 3 and 4, as well as Art 52b on 1. October 1993;
  3. (Note: Repealed by F.L.G. I No. 114/2000)
7. (Note: Repealed by F.L.G. I No. 127/2009)
- 7a. Art 102 para 2, in the version of in the Federal Constitutional Law BGBl I No. 2/1997, enters into force on 1. January 1994. Art 102 para 2, in the version of the Federal Law BGBl. No. 532/ 1993, ceases to be effective simultaneously.
8. Art 54 in the version of the Federal Constitutional Law BGBl. No. 268/1994 enters into force on 1. April 1994.
9. Art 6 paras 2 and 3, Art 26 para 2, Art 41 para 2, Art 49b para 3 and Art 117 para 2 first sentence , in the version of the Federal Constitutional Law BGBl. No. 504/1994 enter into force on 1. January 1995. In the Federal and Laender legal regulations the term "domicile" in all its grammatical versions is replaced by the term "principal residence" as of 1. January 1996 unless the term "domicile" is replaced by the term "principal residence" until midnight 31. December 1995. The term "domicile" must not be used any more in Federal and Laender legal regulations as of 1. January 1996; for as long as Land law does not stipulate that Diet or municipal council suffrage depends on the principal residence or the residence it depends on the domicile. As regards the division of the number of deputies among the constituencies (electoral bodies) and as regards regional constituencies (Art 26 para 2) and the representation of the Laender in the Federal Council (Art 34) the domicile as established by the last general census holds good as principal residence up to the time when the results of the next general census will be at hand.
10. Art 87 para 3 and Art 88a in the version of the Federal Constitutional Law BGBl. No. 506/1994 enter into force on 1. July 1994.
11. The following holds good for the entry into force of provisions newly formulated or inserted by the Federal Constitutional Law published in BGBl. No. 1013/

11. 1994, the abrogation of provisions revoked by this same Federal Constitutional Law as well as the transition to the new legal status:
  1. the title of this law, Art 21 paras 6 and 7, Art 56 paras 2 and 4, Art 122 paras 3 to 5, Art 123 para 2, Art 123a para 1, Art 124, Art 147 para 2 second sentence as well as Art 150 para 2 enter into force on 1. January 1995.
  2. The heading of Chapter I, the heading of Section A in Chapter I, Art 10 para 1 subpara 18, Art 16 para 4, Section B of Chapter I, Art 30 para 3, Art 59, Art 73 para 2, Art 117 para 2, Art 141 paras 1 and 2, Art 142 para 2 subpara c and designations of the henceforth subparas d to i as well as Art 142 paras 3 to 5 enter into force simultaneously with the Treaty on the Accession of the Republic of Austria to the European Union.
  3. Art 10 paras 4 to 6 and Art 16 para 6 in the version of the Federal Constitutional Law BGBl. No. 276/1992 ceases to be effective simultaneously with the entry into force of the provisions specified in subpara 2.
  4. Art 122 para 1 and Art 127b enter into force on 1. January 1997. They apply to acts of administration of public funds subsequent 31. December 1994.
  5. For as long as the representatives of Austria in the European Parliament have not been elected in a general election, they shall be delegated by the National Council from among the members of the Federal Assembly. This delegation ensues on the basis of proposals by the parties represented in accordance with their strength pursuant to the principle of proportional representation. For the period of their delegation members of the National Council and of the Federal Council can simultaneously be members of the European Parliament. If a member of the National Council delegated to the European Parliament relinquishes his seat as a member of the National Council, Art 56 paras 2 and 3 apply. Art 23b paras 1 and 2 hold good analogously as well.
  6. Subpara 5 enters into force on 22. December 1994.
- 11a. Art 112 in the version of the Federal Constitutional Law BGBl. No. 1013/ 1994 and Art 103 para 3 and Art 151 para 6 subpara 3 in the version of the Federal Constitutional Law BGBl. I No. 8/ 1999 enter into force on 1. January 1995.
12. Art 59a, Art 59b and Art 95 para 4 in the version of the Federal Constitutional Law BGBl. No. 392/1996, enter into force on 1 August 1996. Until Land legal regulations are passed pursuant to Art 59a and Art 95 para 4, the appropriate Federal legal regulations shall analogously apply in the Laender concerned unless the Laender have already passed regulations within the meaning of Art 59a and Art 95 para 4.
13. Art 23e para 6 and Art 28 para 5, in the version of the Federal Constitutional Law BGBl. No. 437/1996, enter into force on 15. September 1996.
14. Art 49 and Art 49a paras 1 and 3, in the version of the Federal Constitutional Law BGBl. No. 659/1996, enter into force on 1. January 1997.
15. Art 55, in the version of the Federal Constitutional Law BGBl. I No. 2/1997, enters into force on 1. January 1997. Art 54 is repealed simultaneously.
16. Art 147 para 2, in the version of the Federal Constitutional Law BGBl. I No. 64/1997, enters into force on 1. August 1997.
17. Art 69 paras 2 and 3, Art 73 para 1, Art 73 para 3 and Art 148d in the version of the Federal Constitutional Law BGBl. I 87/1997, enter into force on 1. September 1997. Art 129, Section B of Chapter VI, Art 131 para 3 and the new designations of the sections in Chapter VI enter into force on 1. January 1998.
18. Art 9a para 4, in the version of the Federal Constitutional Law BGBl. I No. 30/1998, enters into force on 1. January 1998.
19. Article 23f enters into force simultaneously with the Treaty of Nice The Federal Chancellor shall announce this date in the Federal Law Gazette.
20. In Art 149 para 1, the following parts are repealed:
  1. the adding of the Constitutional Law of 30. November 1945, BGBl. No.6 of 1946, concerning the law on protection of personal liberty of 27. October 1862, RGBl. No. 87, in the proceedings before the People's Court upon expiry of 30. December 1955;
  2. the words "Law of 8. May 1919, StGBI.No. 257, on the coat of arms and seal of state of the Republic of German-Austria, with the modifications effected by Arts. 2, 5 and 6 of the law of 21. October 1919, StGBI. No. 484;" upon expiry of 31. July 1981.
21. The words "or through the exercise of direct administrative power and compulsion" in Art 144 para 3 are repealed as of midnight 31. December 1990.

22. The Arts. 10 para 1 subpara 14, Art 15 paras 3 and 4, 18 para 5, 21, 37 para 2, 51b para 6, 52 b para 1, 60 para 2, 78d para 2, 102 para 1, the new designation of Art 102 para 6 and the Arts. 118 para 8, 118a and 125 para 3, in the version of the Federal Constitutional Law BGBl. I No. 8/1999 enter into force on 1. January 1999. Art 102 para 5 is repealed upon expiry of 31. December 1998.
23. The Arts. 30 para 3 first sentence, 127c, 129c para 4, 147 para 2 fourth and fifth sentence, and 147 para 6 first sentence, in the version of the Federal Constitutional Law BGBl. I No. 148/ 1999 enter into force on 1. August 1999.
24. Art 8 in the version of the Federal Constitutional Law BGBl. I No. 68/2000 enters into force on 1. August 2000.
25. Art 11 para 8 in the version of the Federal Constitutional Law BGBl. I No. 114/2000 enters into force on 1. December 2000. Art 151 para 6 subpara 3 ceases to be effective upon expiry of 24. November 2000.
26. In the version of the Federal Constitutional Law BGBl. I No. 121/2001 enter into force:
  1. Art 18 para 3 and Art 23e para 5 on 1. January 1997.
  2. Art 21 para 1 and para 6 on 1. January 1999;
  3. Art 147 para 2 first sentence on 1. August 1999;
  4. Art 18 para 4, Art 23b para 2, Art 39 para 2 and Art 91 para 2 on 1. January 2002;
  5. Art 23f para 1 to 3 simultaneously with the treaty of Nice. The Federal Chancellor has to publish this date in the Federal Law Gazette l.
27. Art 14b, Art 102 para 2 and Art 131 para 3 in the version of the Federal Law BGBl. I No 99/2002 enter into force on 1. January 2003. § 2, § 4 para 1, § 5 and § 6 para 1 and 2 of the transition Law BGBl. No 368/1925 apply accordingly. A Land Law having become Federal Law according to the second sentence per 1. January 2003 ceases to be effective with the entering into force of a Land Law passed on the basis of Art 14b para 3, the latest upon expiry of 30. June 2003; simultaneously the corresponding regulations of the Federal Tender Law 2002, BGBl. I No. 99/2002 enter into force to this extent.
28. Art 23a para 1 and 3, Art 26 para 1 and 4, Art 41 para 2, Art 46 para 2, Art 49b para 3 and Art 60 para 3 first sentence in the version of the Federal Law BGBl. I No 90/2003 enter into force on 1. January 2004.
29. Art 11 para 8 in the version of the Federal Law BGBl. I No 114/2000 and BGBl. I No. 100/2003 enters into force on 1. December 2000, Art 151 para 7 in the version of the Federal Law BGBl. I No. 100/2003 upon expiry of the day of publication of this Federal Law. Art 7 para 1, Art 8, Art 8a, Art 9a, Art 10 para 1 subpara 10, Art 13 para 1, Art 14 para 1, para 5 subpara a and para 8, Art 14a, Art 15 para 4, Art 18 para 4 und 5, Art 23 para 1 and 5, Art 23e para 6, Art 26, Art 30 para 2, Art 34 para 2, Art 35 para 1, Art 42 para 4, Art 47 para 1, Art 48, Art 49, Art 49a, Art 51, Art 51a, Art 51 b, Art 51c, Art 52b, Art 57, Art71, Art73, Art81a para.1, 4 and 5, Art 87a, Art 88a, Art89, Art97 para 1 and 4, Art102 para 2, Art 112, Art 115, Art116, Art 116a, Art 117, Art 118, Art 118a, Art 119, Art 119a, Art 126a, Art 126b para 2, Art 127 para 3, Art 127a, Art 127c, Art 134 para 3, Art 135, Art 136, Art 137, Art 139, Art 139a, Art 140, Art 140a, Art 144, Art 146 para 1, Art 147 para 3, Art 148, Art 148a, Art 148b, Art 148e to Art 148j and Art 149 as well as the headings and the other regulations in the version of the Federal Law BGBl. No. 100/2003 enter into force on 1. January 2004.
30. Art 11 para 1 subpara 7 and 8 as well as para 9 in the version of the Federal Law BGBl. I No 118/2004 enter into force on 1. January 2005, however not before the expiry of the day of the publication of the Federal Law named in the Federal Law Gazette. To the extent the Federal legislation does not provide otherwise, simultaneously the existing Laender regulations in the matters of Art 11 para 1 subpara 8 cease to be effective.
31. Art 10 para 1 subpara 9 and Art 151 para 7 in the version of the Federal Law BGBl. I No 153/2004 enter into force on 1. January 2005.
32. Art 14 para 5a, 6, 6a, 7a and 10 and Art 14a para 7 and 8 enter into force upon expiry of the day of the publication of the Federal Constitutional Law BGBl. I No. 31/2005 in the Federal Law Gazette.
33. In the version of the Federal Constitutional Law BGBl. I No. 81/2005 enter into force:
  1. Art 151 para 31 upon expiry of 30. December 2004;
  2. Art 8 para 3 upon expiry of the month of the publication of this Federal Constitutional Act.
- 33a. Art 129 a, Art 129b and Art 129c para 1, 3, 5 and 7 in the version of the Federal Law BGBl. I No. 100/2005 enter into force on 1. January 2006.

34. Art 9a para 3 and 4, Art 10 para 1 subpara 15 and Art 102 para 2 in the version of the Federal Law BGBl. I No 106/2005 enter into force on 1. January 2006.
35. Art 88a in the version of the Federal Law BGBl. I No 121/2005 enters into force on 1. November 2005.
36. The following applies to the entering into force of the regulations modified or added by the Federal Constitutional Law BGBl. I No 27/2007 and the ceasing to be effective of the regulations deleted by this Federal Constitutional Law as well as to the transition for the new legal situation:
1. Art 23a para 1, 3 and 4, Art 26 Abs. 1, 4, 6 and 8, Art 30 para 3, Art 41 para 3, Art 46, Art 49b para 1 first sentence and para 3 second sentence, Art 60 para 1 and para 3 first sentence, Art 95 para 1, 2, 4 and 5, Art 117 para 2 and 6 as well as Art 151 para 33a enter into force on 1. July 2007; simultaneously Art 23 a para 5 and 6 cease to be effective. The Laender regulations are to be adjusted to the new legal situation till expiry of 31. December 2007.
  2. Art 26a enters into force on 1. July 2007. The modification of the Federal Election Board according to this regulation has to take place till expiry of 31. August 2007; the details in this regard shall be determined by the election regulations to the National Council.
  3. Art 27 para 1 enters into force at the beginning of the XXIV. legislation period.
37. The following applies to the entering into force of the regulations added or newly determined by Art 1 of the Federal Constitutional Law BGBl. I No.1/2008:
1. Art 13 para 2 and 3, Art 51 in the version of subpara 4, Art 51a, Art 51b in the version of subpara 7 to 9a, Art 123a, para 1 and Art 148d enter into force on 1. January 2009; the Federal Finance Frame Law for the financial years 2009 till 2012 and the Federal Finance Law for the financial year 2009 are to be prepared and passed already on the basis of these regulations and the draft of the Federal Finance Frame Law for the financial years 2009 till 2012 is to submitted to the National Council the latest simultaneously with the draft for the Federal Finance Law for the financial year 2009.
  2. Art 51 in the version of subpara 5, Art 51b in the version of subpara 10, Art 51c and 51d enter into force on 1. January 2013. Art 51 in the version of subpara 4 and Art 51b in the version of subpara 7 to 9a cease to be effective upon expiry of 31. December 2012. This legal situation already applies to the preparation of the Federal Finance Frame Law for the financial years 2013 till 2016 as well as of the Federal Finance Law for the Financial Year 2013 and the passing of the Law by the National Council.

Article 51a in the version of the Federal Law BGBl. I No. 100/2003 continues to be applied till the expiration of 31. December 2012.

38. Art 2 para 3, Art 3 para 2 to 4, Art 9 para 2, Art 10 para 3 second and third sentence, Art 20 para 1 and 2, Art 23f para 1 last sentence and para 3, Art 50, Art 52 para 1a, the sixth sub section of section A of the third chapter, Art 67a, Art 88 para 1, Art 90a, Art 112, the headings above Art 115, section B of the (new) fifth chapter, the headings above Art 121 and Art 129, Art 134 para 6, the heading above Art 148a, Art 148a para 3 to 5, Art 148c last sentence and the heading above Art 149 in the version of the Federal Constitutional Law BGBl. I No. 2/2008 enter into force on 1. January 2008. The Federal- and Laender Laws necessary for the adaptation to Art 20 para 2 last sentence and Art 120b para 2 are to be passed the latest till the expiry of 31. December 2009.
39. Art 10 para 1 subpara 1, 3, 6 and 14, Art 78d para 2, Art 102 para 2, Art 129, section B of the (new) seventh chapter, Art 132a, Art 135 para 2 and 3, Art 138 para 1, Art 140 para 1 first sentence and Art 144a in the version of the Federal Constitutional Law BGBl. I No. 2/2008 enter into force on 1. July 2008. To the transition to the new legal situation applies:
1. Per 1. July 2008 the former independent Federal Asylum Tribunal becomes the Asylum Court.
  2. Till the appointment of the president, the vice president and the other members of the Asylum Court the former chairman, the former deputy chairman and the former other members of the independent Federal Asylum Tribunal exert their functions. The measures necessary for the appointment of the president, the vice president and the other members of the Asylum Court as well as the hiring of extra judicial employees may

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  2. already take place upon expiry of the day of the publication of the Federal Constitutional Law BGBl. I No. 2/2008.
  3. Members of the independent Federal Asylum Tribunal, applying for an appointment as member of the Asylum Court and having the personal and professional qualification for the appointment are entitled to appointment; the requirements of Art 129d para 3 are deemed to be met by such applicants. The Federal Government decides on the appointment of such applicants.
  4. Cases pending on 1. July 2008 at the independent Federal Asylum Tribunal are to be continued by the Asylum Court. Cases on complaints against decisions of the independent Federal Asylum Tribunal at the Administrative Court or at the Constitutional Court are to be continued by them with the proviso, that the Asylum Court is deemed to be the authority involved.
  5. Starting 28. November 2007, in cases pending at the independent Federal Asylum Tribunal, a complaint for violation of the onus of decision is no longer admissible. Cases already pending at the Administrative Court for violation of the onus of decision by the independent Federal Asylum Tribunal are deemed to be stayed upon expiry of 30. June 2008; the cases to which the complaint relates for violation of the onus of decision are to be continued by the Asylum Court.
40. Art 27, para 2, Art 92 para 2, Art 122 para 5, Art 134 para 4 and 5 as well as Art 147 para 4 first sentence and para 5 in the version of the Federal Constitutional Law BGBl. I No 2/2008 enter into force at the beginning of the XXIV legislation period. To persons, who at the beginning of the XXIV legislation period already carry a function in the sense of Art 92 para 2, Art 122 para 5, Art 134 para 4 and 5 as well as Art 147 para 4 first sentence and para 5, the regulations to be applied up to such date shall continue to be applied.
41. Art 28 para 4 in the version of the Federal Constitutional Law BGBl. I No. 31/2009 enters into force on 1. April 2009.
42. Art 20 para 2 in the version of the Federal Law BGBl. I No. 50/2010 enters into force on 1. October 2010.
43. Art 23c, Art 23d para 2, para 3 first and second phrase and para 5 first phrase, Art 23e to Art 23k and Art 73 para 2 in the version of the Federal Constitutional Law BGBl. I No. 57/2010 enter into force on 1. August 2010.
44. Art 127a para 1, 3, 4 and 7 to 9, Art 127c and Art 146 para 1 in the version of the Federal Law BGBl. I No. 98/2010 enter into force on 1. January 2011.
45. Art 6 para 4, Art 26 para 5 and Art 60 para 3 in the version of the Federal Law BGBl. I No. 43/2011 enter into force on 1. October 2011. The repealing of Art 60 para 3 second phrase so far does not affect the law concerning the expulsion of the house Habsburg-Lothringen and the takeover of their assets, StGBI. No. 209/1919.
46. Art 10 para 1 subpara 11 and Art 102 para 2 in the version of the Federal Law BGBl. I No. 58/2011 enter into force on 1. January 2012. For the transition to the new legal situation applies:
  1. The provisions of the Laender Laws governing fostering money become Federal Laws in the sense of this law.
  2. The ordinances having been rendered on the basis of the laws named in subpara 1 become ordinances of the Federation and are deemed to be modified accordingly to the extent they contradict the organizational provisions of this law.
  3. Federal Law provides, to which extent the laws and ordinances named in subpara 1 and subpara 2 continue to be applied in proceedings pending on 1. January 2012; the implementation of such proceedings is the matter of the Laender. The provisions of this law to be applied in matters of Art 11 are to be applied accordingly to this extent.
  4. Federal Law may provide detailed provisions for the transition to the new legal situation.
  5. The Federal Minister in charge reports to the National Council and the Federal Council the latest till 31. December 2014 on the execution in matters of fostering money.
47. Art 15 para 10 second phrase, Art 116a para 1 first phrase, Art 116a para 1 subpara 1 and subpara 2, Art 116a para 2, para 3 and 6 and Art 116b in the version of the Federal Constitutional Law BGBl. I No. 60/2011 enter into force on 1. October 2011.
48. Art 22, Art 148a, Art 148b para 1 first phrase and para 3, Art 148c last phrase, Art 148d, Art 148g para 2 to 5, Art 148h para 3 and 4 and Art 148i para 3 in



48. the version of the Federal Law BGBl. I No. 1/2012 enter into force on 1. July 2012. The organizational and personal measures necessary for the beginning of the activity of the commissions and of the Human Rights Council can already be taken by the Ombudsman board upon expiry of the date of publication of the Federal Law BGBl. I No. 1/2012. If in a Land a Constitutional Law of the Land is in force on 1. July 2012, by which the Ombudsman board has been declared to be also competent for the administration of the Land according to Art 148i para 1, it is deemed to be a Land having made use from this authorization also regarding tasks according to Art 148a para 3 in the version of the Federal Law BGBl. I No. 1/2012. Constitutional Laws of the Laender according to Art 148i para 3 are to be passed the latest till the expiry of 31. December 2012.
49. Art 10 para 1 subpara 1a and subpara 17, Art 26 para 3 first phrase, Art 26a first phrase and Art 141 para 3 first phrase in the version of the Federal Law BGBl. I No. 12/2012 enter into force on 1. April 2012. Simultaneously Art 10 para 1 subpara 18 is repealed.
50. Art 15 para 3 and 4, Art 78a para 1, Art 78b, Art 78c, Art 78d para 2 and Art 102 para 1 in the version of the Federal Constitutional Law BGBl. I No. 49/2012 enter into force on 1. September 2012; simultaneously the ordinance of the Federal Government on the constitution of Federal Police Directorates and the determination of the regional competence (Federal Police Directorate ordinance), BGBl. II No. 56/1999, is repealed.
51. For the entering into force of the provisions having been modified or inserted by Federal Law BGBl. I No. 51/2012 and for the invalidation of the provisions repealed by this Federal Law as well as the transition to the new legal situation, the following is to be applied:
  1. The organizational and personal measures necessary for the beginning of the activity of the Administrative Courts may already be taken upon expiry of the day of publication of the Federal Law BGBl. I No. 51/2012. For the appointment of members of the Administrative Courts before the 1. January 2014, Art 134 para 2, 3, 5 and 6 in the version of the Federal Law BGBl. I No. 51/2012 apply with the proviso, that the triple proposals of the plenary assembly of the Administrative Court resp. a committee to be elected among its members are not required.
  2. Entitled to be appointed as member of the respective Administrative Court of the Federation is:
    - a. who is Chairman, Deputy Chairman or President of a chamber of the Federal Tender Office on 1. July 2012 and applies to be appointed member of the Administrative Court of the Federation and has the personal and professional qualification to fulfil the tasks linked with the planned employment;
    - b. who is member of the Independent Finance Senate on 1. July 2012 and applies to be appointed member of the Administrative Court of the Federation for Finance and has the personal and professional qualification to fulfil the tasks linked with the planned employment.
  3. The President and the Vice-President of the Administrative Court of the Federation are to be appointed by the Federal Government within six weeks after expiry of the day of publication of Federal Law BGBl. I No. 51/2012.
  4. The application to be appointed as other member of the respective Administrative Court of the Federation may be filed till the expiry of 31. December 2012. The preconditions of Art 134 para 3 last phrase are deemed to be fulfilled for such applicants. The Federal Government decides on the appointment of such applicants till the expiry of 28. February 2013. Persons, whose application is denied, are entitled to file complaint against the refusing ruling according to Art 130 para 1 subpara a with the (Federal) Administrative Court and according to Art 144 with the Constitutional Court.
  5. The right to appoint members for the Administrative Courts of the Laender and the procedure on the appointment are to be determined by Landes-Law under equal principles.
  6. Art 10 para 1 subpara 3, Art 10 para 1, subpara 8, Art 11 para 2, Art 14a para 5 first phrase, Art 14b para 5 second phrase, Art 15 para 6 last-but-one phrase, Art 18 para 5, Art 22, Art 23f para 2, Art 42a, Art 43, Art 49 para 2, Art 50 para 2 and 3, Art 97 para 2 and 4, Art 101a, Art 102 para 2, Art 117 para 8, Art 118 para 3 subpara 9, Art 127c subpara 3, Art 140a, Art 147 para 3, Art 148a para 3 subpara 3 and Art 148b para 1 first phrase in the version of the Federal Law BGBl. I No. 51/2012 as well

51. 6. as Art 131 para 3 in the version of Art 1 subpara 61 and Art 134 para 3 in the version of Art 1 subpara 62 of this Federal Law enter into force upon expiry of the month of the publication; simultaneously Art 15 para 5, Art 98 and Art 127c subpara 4 become invalid. Art 10 para 1 subpara 1, Art 11 para 9 (para 7 new), Art 12 para 4 (para 2 new), Art 20 para 2, Art 21 para 1 last phrase, Art 81b para 3 first phrase, the headline to chapter B of the third main part, Art 82 para 1, Art 83 para 1, Art 86 para 1, Art 87 para 3, Art 88 para 2 and 3, Art 88a, Art 89 para 1 to 3 and 5, Art 90 para 1, Art 90a, Art 94, Art 109, Art 112, Art 115 para 2, Art 118 para 4, Art 119a para 9, the articles 129 to 136 including the headlines of the chapters (chapter A new of the seventh main part), the headline of chapter D (chapter B new) of the seventh main part, Art 138 para 1 subpara 2, Art 139 para 1, 3 and 4 first phrase, Art 139a, Art 140 para 1, 3 last phrase and 4 first phrase, Art 141 para 1, Art 144, Art 147 para 8, Art 148i para 1 and 2 and the exhibit in the version of Federal Law BGBl. I No. 51/2012 enter into force on 1. January 2014; simultaneously Art 11 para 7 and 8, Art 12 para 2 and 3, Art 14b para 6, Art 15 para 7, Art 81a para 4 last phrase, Art 81c para 3, Art 103 para 4, Art 111, Art 119a para 5, Art 141 para 3, Art 144a and Art 148e become invalid.
7. On 1. January 2014 the Asylum Court becomes Administrative Court of the Federation; the members of the Asylum Court become members of the Administrative Court of the Federation.
8. On 1. January 2014 the Independent Administrative Senates in the Laender, the Federal Tender Office and the Independent Finance Senate (in the following: Independent Administrative Authorities) are dissolved; in addition the Administrative Authorities named in the exhibit (in the following: other Independent Administrative Authorities) are dissolved. The jurisdiction to continue the proceedings pending on the expiration of 31. December 2013 at these authorities as well as the proceedings pending at the Supervisory Authorities on representations (Art 119a para 5) passes to the Administrative Courts; this also applies to procedures pending at other authorities in which these authorities may be superior authority on the merits or Superior Authority in the course of appeal, with the exception of organs of the municipality.
9. The Administrative Courts replace the Independent Administrative Authorities, other Independent Administrative Authorities and, to the extent complaint procedures are concerned, all other Administrative Authorities except those Administrative Authorities having decided in first and final instance or had been under the onus to decide, as well as with the exception of organs of the municipality, replace the Administrative Courts in procedures pending at the (Federal) Administrative Court and at the Constitutional Court upon expiry of 31. December 2013. After termination of the procedure before the Administrative Court concerning the ruling or the lack of decision of an Independent Administrative Authority or before the Constitutional Court concerning the ruling of such, the procedure is eventually to be continued before the Administrative Court.
10. Art 131 para 3 in the version of Art 1 subpara 61 of the Federal Law BGBl. I No. 51/2012 continues to be applied in complaint procedures pending at the (Federal) Administrative Court upon expiry of 31. December 2013.
11. Further details on the transition of jurisdiction will be determined by Federal Law.
52. Art 50a to 50d in the version of Federal Law BGBl. I Nr. 65/2012 enter into force simultaneously with the agreement to constitute the European Stability Mechanism.
53. Article 10 Paragraph 1 Subparagraph 11 and 15 as well as Article 102 Paragraph 2 as amended by federal law BGBl. I Number 59/2013 shall be issued by the end of the month by promulgation of this federal law."
54. With the federal constitutional law BGBl. I Number 114/2013 as amended, the following become valid or invalid:
1. Paragraph 51 Subparagraph 4 and 6 as of June 6, 2012;
  2. Article 49 Paragraph 2 Subparagraph 1 as of July 1, 2012;
  3. Article 7 Paragraph 4, Article 12 Paragraph 1 Subparagraph 1, Article 14a Paragraph 1, Article 16 Paragraph 5, Article 52 Paragraph 4, Article 59b Paragraph 1 Subparagraph 2, Article 81 a Paragraph 1, Article 127 Paragraph 8, Article 147 Paragraph 6, Article 148 f as well as the

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  3. footnote sign “\*” in Paragraph 11 Subparagraph 2 and the footnote concerning the provision by the end of the month of the proclamation of this federal constitutional law;
  4. Article 94 Paragraph 2 as of January 1, 2014;
  5. Article 89 Paragraph 2 to 4, Article 139 Paragraph 1, 1a, 1b, third last sentence, 4 and 7 and Article 140 Paragraph 1, 1a, 1b, third last sentence, 4 and 8 as of January 1, 2015.
55. Article 6 Paragraph 4, Article 10 Paragraph 1 Subparagraph 1, Article 130 Paragraph 5 and Article 141 Paragraph 1 letter g as amended by federal constitutional law BGBl.I Number 115/2013 becomes valid January 1, 2014.
56. With the school authority – administration reform law 2013, BGBl.I number 164/2013 is becomes valid:
  1. Article 14 Paragraph 5 letter a and b as well as the introduction sentence of Article 81b Paragraph 1 with the end of the day of publication in the federal law gazette,
  2. Article 81a Paragraph 1 on September 1, 2013,
  3. Article 14 Paragraph 3 letter a, Paragraph 4 letter a, Article 81 a Paragraph 2 and 3, Article 81b Paragraph 1 (as long as it is not concerned by subparagraph 1), Article 132 Paragraph 1 and 4 as well as Article 133 Paragraph 6 as of August 1, 2014.

## Art 152

The execution of this law is entrusted to the Federal Government.

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