

AUSTRIA
THE FEDERAL CONSTITUTIONAL LAW OF 1920
as amended in 1929 as to
Law No. 153/2004, December 30, 2004

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CHAPTER I
General Provisions
European Union

A. General Provisions

Article 1

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

Article 2

(1) Austria is a Federal State.

(2) The Federal State is constituted from independent *Länder*: Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tirol, Vorarlberg and Vienna.

Article 3

(1) The Federal territory comprises the territories (*Gebiete*) of the Federal *Länder*.

(2) A change of the Federal territory, which is at the same time a change of a *Land* territory (*Landesgebiet*), just as the change of a *Land* boundary inside the Federal territory, can—apart

from peace treaties—take place only from harmonizing constitutional laws of the Federation (*Bund*) and the *Land*, whose territory experiences change.

Article 4

- (1) The Federal territory forms a unitary currency, economic and customs area.
- (2) Internal customs borders (*Zwischenzolllinien*) or other traffic restrictions may not be established within the Federation.

Article 5

- (1) The Federal Capital and the seat of the supreme bodies of the Federation is Vienna.
- (2) For the duration of extraordinary circumstances the Federal President, on the petition of the Federal Government, may move the seat of the supreme bodies of the Federation to another location in the Federal territory.

Article 6

- (1) For the Republic of Austria there is one uniform nationality.
- (2) Nationals, who have their principal domicile in one *Land* are their *Land* citizens (*Landesbürger*); however, *Land* laws can provide that nationals, who have their domicile in a *Land*, but not their principal domicile, are citizens of that *Land*.
- (3) The principal domicile of a person is established, where he/she has settled with provable intention or [when it is] apparent from the circumstances that this was to be the central point of relations of life; if the real assumption in an overall professional, economic and social relations of life is met by several domiciles, then the person has to designate the one to which he/she has the prevailing closest proximate relationship.

Article 7

- (1) No one may be discriminated against because of his personal impediment. The Republic, Federation, *Länder* and Municipalities are committed to guarantee equal treatment to the impaired and non-impaired humans in all areas of daily life.[\[1\]](#)
- (2) The Federation, the *Länder* and Municipalities commit themselves to the actual equal standing of man and women. Measures for the advancement of the actual equal position of women and men by the elimination of actually existing inequalities are admissible.
- (3) Official designation can be used in a form which indicates the gender of the office holder. The same applies to academic ranks and professional titles.
- (4) Public servants (*Bedienstete*) including members of the Federal Army are guaranteed the undiminished exercise of their political rights.[\[2\]](#)

Article 8[\[3\]](#)

(1) The German language is, without prejudice to the rights established by Federal Constitutional Law, the State language of the Republic.

(2) The Republic (Federation, *Länder* and Municipalities) acknowledges the grown linguistic and cultural diversity that finds its expression in the autochthonous ethnic groups (*Volksgruppen*). Language and culture, existence and preservation of these ethnic groups shall be respected, secured and fostered.

Article 8a

(1) The colors of the Republic of Austria are red-white-red. The flag consists of three horizontal stripes of equal breadth, of which the middle one is white, the upper and lower [ones] are red.

(2) The coat of arms of the Republic of Austria [Federal Coat of Arms] consists of an unfettered (*freischwebend*) single-headed black, red-tongued, gilt-armed eagle whose breast is covered by a red shield with a silver cross-piece. The eagle bears on its head a golden mural crown with three visible merlons (*Zinnen*). The two talons are surrounded by a sundered iron chain. It carries in its right talon a golden sickle with the blade turned inward, in its right talon [it carries] a golden hammer.

(3) Detailed provisions especially concerning the protection of the colors and the coat of arms of the Republic are made by Federal law.

Article 9

(1) The generally recognized rules of International Law are valid parts of Federal law.

(2) By Law or by a State Treaty which must be ratified in accordance with Article 50(1), specific sovereign rights (*einzelne Hoheitsrechte*) of the Federation can be transferred to intergovernmental institutions and their organs and the activity of organs of foreign states in Austria (*Inland*) as well as the activity of Austrian organs abroad can be regulated within the framework of International Law.

Article 9a

(1) Austria commits itself to comprehensive national defense. Its goal is to safeguard its independence toward the outside and the unity of the Federal territory, especially for the maintenance and defense of the permanent neutrality. In this its constitutional institutions and its capacity to act, as well as the democratic freedoms of its inhabitants are also to be protected and defended from violent attacks from the outside.

(2) To the comprehensive national defense belong the spiritual (*Geistige*), civilian and economic national defense.

(3) Every male Austrian citizen is liable for military service. Whoever refuses to fulfill his defense obligation on the grounds of reasons of conscience and is exempted from it, is to render alternate service (*Ersatzdienst*). Details will be determined by laws.

(4) Austrian female citizens may voluntarily serve in the Federal Army as soldiers and have the right to complete this service.[\[4\]](#)

Article 10

(1) Legislation and its implementation is a Federal concern (*Bundessache*) in the following matters:

1. The Federal Constitution—especially elections to the National Council (*Nationalrat*), plebiscites on the basis of the Federal Constitution, constitutional jurisdiction (*Verfassungsgerichtsbarkeit*);

2. external affairs, including political and economic representation abroad, in particular the conclusion of State treaties, notwithstanding the competence of the *Länder* in accordance with Article 16 Paragraph 1; demarcation of frontiers; trade in goods and livestock with other countries; customs;

3. regulation and supervision of entry to and exit from the Federal territory; immigration and emigration matters; passport matters; deportation, removal (*Abschaffung*), expulsion and extradition as well as transpassage (*Durchlieferung*);

4. Federal finances, especially public imposts (*Abgaben*), which are to be collected exclusively or partially for the Federation; and matters of monopoly;

5. matters concerning money, credit, stock exchange and banking; measures and weights, standards and hallmarks (*Punzierungswesen*);

6. matters of civil law, including matters of economic association, however excluding regulations which govern real property transactions for foreigners and transactions involving built-up property or [property] earmarked for building which are subject to restrictions by administrative authorities, including legal acquisition caused by death by persons who do not belong to the circle of legal heirs; private endowment affairs; criminal law with exclusion of administrative penal law and administrative penal procedure in matters which fall into the independent area of competence of the *Länder*; administration of justice; institutions for the protection of society, such as compulsory labor and similar establishments, against criminal, degenerate or otherwise dangerous persons; administrative adjudication (*Verwaltungsgerichtsbarkeit*); copyright; press affairs, expropriation for purposes of restoration (*Assanierung*), and other restoration insofar as it does not fall into the independent area of competence of the *Länder*; affairs relating to notaries, attorneys and related professions;

7. the maintenance of peace and order and security, including the provision of general first aid, but with the exclusion of local security police; the right of association and assembly; matters pertaining to personal status, including the registration of birth, marriages and deaths (*Matrikenwesen*) and the change of names; aliens policies and registration (*Meldewesen*); matters pertaining to weapons and munitions, the use of firearms (*Schiesswesen*);

8. affairs pertaining to trade and industry; public agencies and private business brokerage; the curbing of unfair competition; matters concerning patents as well as protection of designs, trademarks and other designations of merchandise; affairs concerning patent attorneys;

matters pertaining to engineers and civil technicians (*Ziviltechnikerwesen*); chambers of commerce, trade and industry; establishment of professional agencies insofar as they extend over the entire Federal territory with the exception of those in the agricultural and forestry field.

9. traffic matters relating to railways and aviation as well as shipping insofar as these do not fall under Article 11; motor traffic matters; matters, with the exception of highway police, which, in account of their importance for traffic control involve roads declared by Federal law to be Federal highways; river and navigation police, insofar as it is not covered by Article 11; the postal and telecommunication system; environmental impact assessments for federal highways and high speed railway connections from which significant impacts on the environment can be expected;[\[5\]](#)

10. mining; forestry, including timber floating (*Triftwesen*); water law, regulation and maintenance of waters for the safe diversion of floods or for the purpose of shipping and rafting operations; control of wild streams; construction and maintenance of waterways; normalization and standardization of electrical plants and installations, safety measures in this field; high voltage power transmission regulations insofar as the installation extends over two or more *Länder*; matters relating to steam boilers and other power engines; and surveying;

11. labor law insofar as it is not covered under Article 12; social and contractual insurance matters; chambers for workers and employees; with the exception of those in the field of agriculture and forestry;

12. matters of public health with the exception of the field of the burial and disposal of the dead as well as sanitation and first aid services, but only sanitary supervision of hospitals, and nursing homes, the spas and natural cure resorts; measures to defend the environment against dangerous stresses (*Belastungen*) which originate from the violation of the emission limits; veterinary matters; nutrition including the control of food products; maintenance of clean air, without prejudice to the competence of the *Länder* for heating installations; waste-disposal business with respect to dangerous waste, concerning other waste only insofar as there is a need for the enactment of uniform regulations; veterinary matters; nutrition matters including the control of nutritional products; regulation of the business with seed and plant matters; feed; fertilizer and plant protection products as well as plant protection tools, including the use and with seed and plant matters also the recognition (*Anerkennung*) [*thereof*].

13. scientific and specialized technical archival and library service; matters pertaining to artistic and scientific collections and installations (*Einrichtungen*) of the Federation; all matters pertaining to the Federal theaters (which, however, does not include the determination of the building line and of the level, as well as the treatment by building authorities of installations concerning the outside appearance of the theater buildings); protection of monuments; religious matters; census—while preserving the rights of the *Länder* to assemble any statistics in their own territory—as well as endowments and funds insofar as they concern endowments and funds which, according to their purposes, go beyond the area of interest of the *Land* and which hitherto have not been administered autonomously by the *Länder*;

14. the organization and leadership of the Federal police and the Federal gendarmerie; regulation of the establishment and organization of other guarding bodies, with the exception

of communal guarding bodies, regulation of the armament of guarding bodies and the right to the use of weapons;[\[6\]](#)

15. military affairs; matters relating to war damages and the care for veterans and their survivors; care of war graves; measures deemed necessary because of war or as a consequence of war to secure unified leadership in the economy especially with respect to the supply of the population with essentials;

16. the establishment of Federal authorities and other Federal offices; civil service law and the right of representation of civil service employees;

17. population policy insofar as it has for its object the granting of assistance to children and the creation of burden equalization in the interest of the family;

18. elections to the European Parliament.

(2) In Federal laws concerning the inheritance law of peasants as well as in Federal laws enacted in accordance with Paragraph 1, subparagraph 10. The *Land* legislature may be authorized to issue implementing regulations relating to specific provisions. For *Land* laws the provisions of Article 15, Paragraph 6 shall be meaningfully applied. The execution of such enabling laws belongs to the Federation; however, implementation ordinances insofar as they pertain to the implementation provisions of the *Land* law require a prior agreement with the *Land* government concerned.

(3) Before the Federation concludes State treaties (which require implementing measures within the meaning of Article 16 or which in other ways touch upon the area of jurisdiction (*Wirkungsbereich*) of the *Länder*), it must give the *Länder* opportunity to state their position.

Article 11

(1) In the following matters legislation is Federal business, execution that of the *Länder*:

1. State citizenship and the right of domicile;

2. professional representation, insofar as it does not fall under Article 10, however, with the exception of those in the field of agriculture and forestry; as well as in the field of mountain and ski guiding enterprises and sport instruction business which fall under the independent field of operation of the *Länder*.

3. people's housing matters except for the promotion of domestic dwelling construction and domestic rehabilitation;

4. highway police;

5. sanitation;

6. inland navigation relative to shipping concessions, shipping installations and enforcement rights at such installations, insofar as they pertain to the Danube, the Neusiedlersee and frontier stretches of other frontier waterways; stream and shipping police on inland waters

with the exception of the Danube, the Bodensee, the Neusiedlersee and the frontier stretches of other frontier waterways;

7. environmental impact assessment for projects from which considerable environmental impacts are to be expected and, insofar as a need for the enactment of uniform regulation is considered to exist, the approval of such projects;

8. protection of animals, insofar as it is not a federal matter in accordance with other legislative provisions, but with the exception of hunting and fishery.[\[7\]](#)

(2) Insofar as a need for the enactment of uniform regulations is deemed to exist, Federal law will regulate the administrative procedure, the general provisions concerning administrative penal law, the administrative penal procedure and the administrative execution (*Verwaltungsvollstreckung*) and in matters in which legislation is vested in the *Länder*, especially in matters of taxation (*Abgabewesen*); divergent regulations in the individual areas of administration may be provided only when they are necessary for the regulation of the subject.

(3) The implementation ordinances to the Federal laws enacted in accordance with Articles 1 and 2 shall be issued by the Federation unless these laws provide otherwise. The manner of publication of implementing ordinances, to whose issuance by Federal Law *Länder* are empowered to carry out in matters relating to Paragraph 1, Subparagraphs 4 and 6, may be regulated by Federal law.

(4) The application (*Handhabung*) of the laws and the implementing ordinances issued in accordance with Paragraph 2 pertains to the Federation or the *Länder*, depending on whether the subject matter of the procedure is a matter for execution by the Federation or by the *Länder*.

(5) Insofar as a need exists for the issuance of uniform regulations, uniform limits to emissions of atmospheric pollutants can be established by Federal law. These may not be exceeded in the particular areas of administrative regulations in the Federal and *Land* regulations.

(6) Insofar as a need is deemed to exist for the issuance of uniform regulations Federal law shall also regulate the procedure for citizens participation (*Bürgerbeteiligungsverfahren*) for projects to be determined by Federal law, the participation in an administrative procedure which follows after the procedure for citizen participation and the consideration of the results of the procedure for citizen participation at the time of the issuance of the required permits for the concerned projects as well as the approval of the projects specified in Article 10(1) Subparagraph 9. For the execution of these regulations Paragraph 4 applies.

(7) In the matters [referred to] in Paragraph 1 Subparagraph 7, after the exhaustion of the appeal stages (*Instanzenzug*), in the area of execution the decision belongs to the independent environment tribunal (*Umweltsenat*). It is furthermore the pertinent superior authority with respect to the regulations in the sense of the administrative procedure. The independent environment tribunal consists of the chairman, judges and other members with knowledge of the law (*rechtskundige*) and will be established at the competent Federal Ministry. The establishment, the tasks and the procedure of the tribunal are regulated by Federal law. Its

decisions are subject to annulment or amendment by appeal; complaint[s] to the Administrative Court are admissible.

(8) If a project pursuant to Paragraph, 1 Subparagraph 7 extends over several *Länder*, the participating *Länder* shall initially proceed by mutual agreement. If a mutually agreed decision is not achieved within a time limit to be set by federal law (*bundesgesetzlich*), the competence passes, at the request of a *Land* or a participating party concerned with the matter, to the independent environment tribunal.[\[8\]](#)

(9) In the matters referred to in Paragraph 1 Subparagraph 7 and 8, the Federal Government and the particular Federal Minister have the following powers (*Befugnisse*) against a *Land* government:[\[9\]](#)

1. The authority to inspect the files (*Akten*) of the *Land* authorities by Federal organs;
2. The authority to demand the transmission of reports concerning the execution of laws and decrees issued by the Federation;
3. The authority to demand to provide all information concerning execution necessary for the preparation of the issuance of laws and decrees by the Federation;
4. The authority to demand, in particular cases, information and the presentation of documents, insofar as this is necessary for the exercise of other powers (*Befugnisse*).

Article 12

(1) Legislation concerning basic principles is a Federal responsibility (*Bundessache*); the issuance of implementing laws and their execution is a responsibility of the *Länder* in the following matters:

1. welfare (*Armenwesen*); population policy; insofar as it does not fall under Article 10; popular care institutions; maternity, infant and youth care; hospitals and nursing homes; requirements to be improved for reasons of health on spas as well as sanatoria and health care institutions, natural healing resources;
2. public institutions for the out-of-court adjustments of disputes;
3. land reform, in particular agrarian operations and resettlement;
4. the protection of plants against diseases and pests;
5. matters pertaining to electricity insofar as they do not fall under Article 10;
6. labor law, including the protection of laborers and employees, insofar as it concerns laborers and employees in agriculture and forestry.

(2) In matters pertaining to land reform, decisions in the highest instance and on the *Land* instance rest with the senates, whose membership consists of a chairman, judges, administrative officials and experts; the senates which are called upon to render decisions in the highest instance are established at the competent Federal Ministry. The organization,

functions and procedures of the senates as well as the principles relating to the organization of other authorities concerned with land reform matters shall be regulated by Federal law. In this it is provided that the decisions of the senates are not subject to repeal or change by administrative ruling; the exclusion of an ordinary legal remedy by the authority of first instance to the *Land* instance is inadmissible.

(3) If and insofar as any matters pertaining to electric power decisions by *Land* authorities (*Bescheide der Landesinstanzen*) differ from each other, or if the *Land* government was the only competent authority, the competence in such a matter passes to the competent Federal Ministry, provided that a party requests within the period to be set by Federal law. As soon as it [the Federal Ministry] has made a decision, the previous decision by the *Land* authorities ceases to have validity.

(4) Fundamental laws and fundamental provisions in Federal legislation shall be expressly designated as such.

Article 13

(1) The competences of the Federation and the *Länder* in the field of taxation are regulated by a special Federal Constitutional Finance Law.

(2) The Federation, the *Länder* and the Municipalities shall seek to establish in their financial management the safeguarding of an overall balance.

Article 14

(1) It is the business of the Federation (*Bundessache*) to enact legislation and implementation in the field of schooling as well as the fields of education in matters pertaining to the students' hostels, unless otherwise provided for in the following paragraphs. The matters regulated in Article 14a do not count as matters of education and upbringing.

(2) Legislation is the concern of the Federation; the implementation in matters pertaining to service law and the law of personal representation of teachers at compulsory public schools is the concern of the *Länder* (*Landessache*) insofar as this is not otherwise specified in Subparagraph (4). In enacting the implementing provisions, the provisions of Article 15(6) apply correspondingly. Implementing provisions to the Federal laws, are the business of the Federation, unless provided otherwise.

(3) It is the business of the Federation to legislate as to basic principles; and it is the business of the *Länder* to issue implementing laws and to execute the following matters:

a) composition and organization of the boards (*Kollegien*), which are to be formed in the *Länder* and political districts, including the appointment and remuneration of the members of the boards;

b) external organization (structure, organizational forms, establishment, maintenance, termination, local units (*Sprengel*), class sizes and instruction periods) of the compulsory public schools (*Öffentliche Pflichtschulen*);

c) external organization of the public pupils' hostels (*Öffentliche Schülerheime*), which are designated exclusively or predominantly for pupils of compulsory schools;

d) professional requirements for employment of Kindergarten teachers (*Kindergartnerinnen*) and teaching aides (*Erzieher*), who are to be employed by the *Länder*, Municipalities and communal associations at centers (*Horste*) and pupils' homes exclusively or predominantly for pupils of compulsory schools.

(4) It is the business of the *Länder* to provide legislation and carry out execution in the following matters:

a) official competence (*Behördenzuständigkeit*) over teachers at compulsory public schools on the basis of laws enacted according to Paragraph 2; in the *Länder* laws it is to be specified that the school authorities of the Federation are to participate in the *Länder* and political districts in matters of nominations, other appointments to service positions and awards (*Auszeichnungen*) as well as in qualifications and disciplinary proceedings. The participation in nominations, other appointments to service positions and awards shall comprise, in any case, the right of recommendation on [the] part of the school authority of the first instance of the Federation;

b) the system of Kindergarten and centers (*Horstwesen*).

(5) In deviation from the provisions of Paragraphs 2 to 4, it is the business of the Federation to provide legislation and carry out execution in the following matters:

a) public demonstration schools (*Öffentliche Übungsschulen*), demonstration Kindergarten, demonstration centers and demonstration pupils' homes, which are incorporated into a public school for the purpose of demonstrations envisioned in the teaching plan.

b) public pupils' homes which are designated exclusively or predominantly for the pupils of demonstrating schools named in Subparagraph a) of this Article.

c) service personnel representation law (*Personalvertretungsrecht*) of teachers, aides (*Erzieher*) and Kindergarten teachers in public institutions named in Subparagraphs a) and b) of this Article .

(6) Public schools are those schools which are established by the legal school authority (*Gesetzlicher Schulerhalter*). The legal school authority is the Federation, insofar as legislation and execution in matters pertaining to establishment, maintenance and closing of public schools is the business of the Federation. The legal school authority is the *Land* or according to provision of the *Land* laws the Municipality or the communal association, insofar as the legislation or implementation legislation (*Ausführungsgesetzgebung*) and execution in matters of the establishment, maintenance and closing of public schools is the business of the *Land*. Public schools are generally accessible to all without distinction of birth, sex, race, estate, class, language and religious confession [and] otherwise within the framework of legal preconditions. The same applies correspondingly (*sinngemäß*) to Kindergarten, centers and pupils' homes.

(7) Schools which are not public are private schools. To these shall be accorded public law status (*Öffentlichkeitsrecht*) in the measure provided for in the laws.

(8) The Federation has the right to procure information in matters which, according to Paragraphs 2 and 3, fall under the execution by the *Länder* concerning the observance of the laws and ordinances issued on the basis of those paragraphs and it may, for this purpose, send investigators (*Organe*) into the schools and pupils' hostels. If deficiencies are found, the *Land* Governor may be directed (Article 20, Paragraph 1) to bring about the elimination of the deficiencies within an appropriate period of time. The *Land* Governor must take care to bring about the elimination of deficiencies in accordance with the legal provisions and he is obligated to effect the implementation of such directives through such means as are at his disposal in his capacity as an organ of independent competence of the *Land*.

(9) In the field of service law of teachers, aides, Kindergarten teachers, the general rules of Articles 10 and 21 apply as to the distribution of competences for legislation and execution regarding the service conditions in the Federation, the *Länder*, the Municipalities and communal associations, insofar as it is not otherwise provided in the preceding paragraphs. The same applies to the personnel representation law of teachers, aides and Kindergarten teachers.

(10) In matters relating to school authorities of the Federation, the *Länder* and the political districts, compulsory schooling, school organization, private schools and the relationship between schools and the churches (religious associations) including religious instruction in the school insofar as it does not concern matters of the universities and academies of art, the National Council can pass Federal legislation only if at least one-half of the members are present and a majority of two-thirds have voted. The same applies to the ratification of State treaties pertaining to those matters which fall into the type specified in Article 50.

(11) Abrogated.

Article 14a

(1) In the area of the agricultural and forestry school system, as well as in the area of agricultural and forestry in matters pertaining to the pupils' homes, furthermore in matters of civil service law and the personnel representation law of teachers and educators of schools and pupils' hostels, which fall under this Article's legislation and execution is the business of the *Länder*, insofar as it is not provided otherwise in the following Articles. Matters concerning higher education do not belong to the agricultural and forestry school system.

(2) Legislation and execution in the following matters is the responsibility of the Federation:

a) teaching institutions of higher agriculture and forestry as well as institutions for the education and continuing education of teachers in schools of agriculture and forestry;

b) professional schools for the training (*Ausbildung*) of forestry personnel;

c) public professional schools for agriculture and forestry which, for the conduct of exercises scheduled in a curriculum, are organizationally connected with a Federal public school or a [Federal] testing institution for agriculture and forestry named under Subparagraphs a to c;

d) pupils' hostels, which are designated exclusively or predominantly for pupils of schools named under Subparagraphs a to c;

e) civil service law and personnel representation law of teachers and educators of institutions named under Subparagraphs a to d;

f) subsidies for personnel expenditures of confessional schools for agriculture and forestry;

g) Federal testing institutions for agriculture and forestry, which are organizationally connected with a school for agriculture and forestry, which is mentioned by the Federation for the conduct of exercises scheduled in a curriculum.

(3) Insofar as it does not concern matters provided for in Paragraph 2, legislation is a Federal responsibility, execution rests with the *Länder* [in matters of]:

a) religious instruction;

b) civil service law and personnel representation law of teachers or public professional and specialized schools for agriculture and forestry and of educators for public pupils' hostels which are designated exclusively or predominantly for pupils of these schools, except, however, matters of official competence (*Behordenzuständigkeit*) for the exercise of service supervisory authority (*Diensthoheit*) over these teachers and educators.

In Federal laws enacted on the basis of provisions under Subparagraph b, the legislative organs of the (*Landesgesetzgebung*) may be empowered to enact implementing provisions for specific provisions which must be clearly indicated; in this [case] the provisions of Article 15, Paragraph 6, apply correspondingly. Implementing ordinances to the Federal laws are to be enacted by the Federation insofar as not otherwise determined therein.

(4) Legislation concerning principles is a responsibility of the Federation; the enactment of implementing laws and the execution belongs to the *Länder*:

a) with respect to agriculture and forestry professional schools: in matters pertaining to the determination as well as the educational goal, the compulsory subjects and (*Unentgeltlichkeit*) the provision of instruction free of charge, as well as in matters of compulsory schooling and the transfer from the school of one *Land* into the school of another *Land*;

b) with respect to agriculture and forestry professional schools: in matters pertaining to the determination of admission requirements, the educational goal, the forms of organization, the scope of instruction and the compulsory subjects, the provision of instruction free of charge and the transfer from the school of the *Land* into the school of another *Land*;

c) in matters pertaining to the public legal status (*Öffentlichkeitsrecht*) of the private agricultural and forestry professional and technical schools with the exception of schools which fall under Paragraph 2 Subparagraph b;

d) with respect to the organization and compensation of advisory councils, which participate in matters pertaining to Paragraph 1 in the execution by the *Länder*.

(5) The establishment of agricultural and forestry professional schools and experimental institutions, designated in Paragraph 2, Subparagraphs c and g, is permissible only if the Government of the *Land* in which the professional school or the experimental institution, respectively, is to have its seat, has consented to its establishment. This consent is not

required if it concerns the establishment of an agricultural and forestry professional school which is to be limited organizationally with an institution for the education and continuing education of teachers at agricultural and forestry schools for the provision of curricularly planned exercises.

(6) The Federation has the authority to insure the observance of regulations, enacted by it in matters which, according to Paragraphs 3 and 4, are subject to execution by the *Länder*.

(7) The provisions of Article 14, Paragraph 6, 7 and 9 apply correspondingly also to the areas specified in the first sentence of Paragraph 1.

(8) In matters pertaining to Paragraph 4, Federal laws cannot be passed by the National Council, except in the presence of at least one-half of the members and with a two-thirds majority.

Article 14b[10]

(1) Federal responsibility is the legislation concerning matters of public contracting (*öffentlichen Auftragswesens*), insofar if these do not fall under paragraph 3.

(2) The execution of matters [referred to] in paragraph 1 is:

1. Federal responsibility with respect to

a. the Awarding of Contracts by the Federation;

b. the Awarding of Contracts by foundations and institutions within the meaning of Article 126b(1);

c. the Awarding of Contracts by enterprises in the meaning of Article 126b(2), if the financial participation or influence through other economic or organizational measures of the Federation is at least as great as the financial participation or influence of the *Länder*;

d. the Awarding of Contracts through self-governing corporation, established by federal law;

e. the Awarding of Contracts through legal entities (*Rechtsträger*) not mentioned under subparagraphs *a* to *d*,

aa) which are funded by the Federation, if the financial share of the Federation is at least equally great as that of the *Länder*;

bb) which with respect to their operation are under the supervision of the Federation, insofar as the Awarding does not come under subparagraphs *aa*;

cc) whose administrative directing and supervisory organs consist of members that have been appointed by the Federation, if the Federation has appointed at least as many members as the *Länder*, insofar as the Awarding does not fall under subparagraphs *aa* or *bb*;

f. in the joint Awarding of Contracts by the Federation and the *Länder*, if the share of the Federation of the estimated total value is at least as great as the sum of the shares of the *Länder*;

g. of the Awarding of Contracts through legal entities who are referred in subparagraphs *a* to *f*.

2. [It is the] Responsibility of *Länder* with respect [to]

a. the Awarding of Contracts by the *Land*, the communes and the associations of Municipalities;

b. the Awarding of Contracts through foundations and institutions in the sense of Article 127(1) and Article 127a paragraphs 1 and 8;

c. the Awarding of Contracts by enterprises in the sense of Article 126b(2), insofar as it does not fall under paragraph 1 subparagraph *c*, as will the Awarding of Contracts by enterprises in the sense of Article 127(3) and Article 127a (3 and 8);

d. the Awarding of Contracts through self-governing corporations that were established by *Land* law;

e. the Award of Contracts through legal entities not mentioned in paragraph 1 subparagraphs *a* to *d*,

aa) which are funded by the *Land* alone or jointly with the Federation or with other *Länder*, insofar as the Awarding does not fall under paragraph 1 subparagraph *e* subparagraph *aa*;

bb) which with respect to the operation are subject to supervision of the *Land*, insofar as the Awarding does not fall under paragraph 1 subparagraph *e* subparagraph *aa* or *bb*;

cc) whose administrative directing and supervisory organs consist of members, who were appointed by the *Land*, insofar as the Awarding does not fall under paragraph 1 subparagraph *e* subparagraphs *aa* to *cc*;

f. [provided that] the joint Awarding of Contracts through the Federation and several *Länder*, insofar as these do not fall under paragraph 1 subparagraph *f*, as well as the joint awarding of contracts through several *Länder*.

Municipalities are considered independent of the number of inhabitants as legal entities in the sense of paragraph 1 subparagraphs *b* and *c*, which are subject to the competence of the Court of Accounts. Within the frame of paragraph 1 subparagraphs *b*, *c*, *e* and *f*, the Awarder (*Auftraggeber*), in the sense of paragraph 1 are counted to the Federation and of paragraph 2 to the concerned *Land*. If, pursuant to paragraph 2 subparagraph *c*, *e* or *f*, *Länder* are participating, the competence for execution is determined by the prevalence of the criterion, which, according to the corresponding letters (paragraphs or subparagraphs) of paragraph 1, is decisive for the delineation, or could be, either according to the seat of the Awarder (*Auftraggeber*), or the center (*Schwerpunkt*) of the entrepreneurial activity, or according to the seat (main seat) of the awarding instance, but if the competence cannot be determined, then

that participating *Land* is competent, which at the time of the initiation of the awarding procedure, was called to the chairmanship in the Federal Council or was the last [to chair it].

(3) It is the responsibility of the *Land* in matters of legislation and execution of auditing (*Nachprüfung*) the Awards of Contracts through the Awardee (*Auftraggeber*) in the sense of paragraph 2 subparagraph 2.

(4) The Federation is to give the *Länder* the opportunity, to participate in the preparation in legislative (*Gesetzesvorhaben*) in matters concerning paragraph 1. Federal laws, pursuant to paragraph 1, which regulate matters, whose execution is a *Land* responsibility, may only be publicized with the consent of the *Länder*.

(5) The implementing decrees (*Durchführungsverordnungen*) of federal laws, pursuant to paragraph 1, shall be issued by the Federation, insofar as these laws do not provide something else. Paragraph 4 is to be applied correspondingly to such decrees.

(6) The administrative authorities which are competent for the implementation of the auditing procedure (*Nachprüfungsverfahren*) can also be legally called for the control of the supreme organs of execution of the communes, association of communes and private parties (Private), specified in Article 19(1).

Article 15

(1) Insofar as a matter is not expressly transferred by the Federal Constitution to the legislation or also the execution of the Federation, it remains in the independent competence of the *Länder*.

(2) In matters pertaining to local security police, i.e. the part of the security police which wholly or preponderantly affects the interests of the local community, embodied in the Municipality and which is amenable to be taken care of by the community within its local boundaries, such as the preservation of public property and the protection against unwarrantedly caused disturbing noises, the Federation has the authority to supervise the management of these matters by the Municipality and to correct observed deficiencies through directives to the *Land* Governor (Article 103). For this purpose inspection organs of the Federation may be sent into the Municipality. In every case the *Land* Governor is to be informed.

(3) The legislation of the *Länder* in matters pertaining to theaters and cinemas, public shows, performances, presentations and amusements, shall transfer to the local field of operation of the Federal police directorates, at least the supervision of performances (*Veranstaltungen*), insofar as this does not extend to technical (*betriebstechnische*), building and fire police considerations and the participation in the first instance of the granting of licenses as provided for in such laws.

(4) Corresponding laws of the Federation and the concerned *Land* shall regulate to what extent the Federal police directorates shall be charged with the execution of highway police matters belonging within the local operational sphere, with the exception of local street police (Article 118, Paragraph 3, line 4) and in the area of river and navigation police on internal waterways with the exception of the Danube, the Bodensee, the Neusiedlersee and the frontier stretches of other frontier waterways. [\[11\]](#)

(5) Insofar as the execution in matters of building concern federally owned buildings, which serve public purposes, such as the accommodation of offices and public institutions—among them schools and hospitals—or barracks for the quartering of members of the Army or other Federal employees, these executive acts fall under the indirect Federal administration; the appeals procedure ends with the *Land* Governor. However, the determination of the building line and the levels fall in the cases under the executive power of the *Länder*.

(6) Insofar as only legislation concerning basic principles has been reserved to the Federation, the more detailed implementation within the framework determined by Federal law, is incumbent upon the legislation of the *Land*. The Federal law can set a time limit for the enactment of implementing legislation which, without the consent of the Federal Council (*Bundesrat*), may not be shorter than six months and not longer than one year. If this time limit is not observed by a *Land*, the competence for the issuance of the implementing legislation passes from the *Land* to the Federation. As soon as the *Land* has issued the implementing law, the implementing law of the Federation ceases to be valid. If the Federal legislation has not established basic principles, the *Land* legislation may regulate such matters freely. As soon as the Federal legislation has established basic principles, the *Land* legislation must be assimilated into the basic principles law (*Grundsatzgesetz*) within the time period to be determined by Federal legislation.

(7) If an executive act of a *Land* in matters [referred to] in Articles 11, 12, 14 Paragraphs 2 and 3, and 14a Paragraphs 3 and 4 is to be effective in several *Länder*, the participant *Länder* must first proceed on an agreed basis. If within six months, from the initiation of the legal matter, no agreement has been reached, the competence for such an act passes, on the request of one *Land* or a participating party in this matter, to the competent Federal Minister. The details can be regulated by Federal laws on the basis of Articles 11, 12, 14 Paragraphs 2 and 3 and 14a Paragraphs 3 and 4.

(8) In matters which, according to Articles 11 and 12, are reserved to Federal legislation, the Federation has the right to control the observance of the regulations which it has enacted.

(9) The *Länder* are authorized within their legislation, to make provisions which are required for the regulation of the matter, including such matters as pertain to the field of criminal and civil law.

(10) *Land* laws which alter or regulate anew the existing organization of the authorities of general state administration in the *Länder*, may be promulgated only with the consent of the Federal Government.

Article 15a

(1) The Federation and the *Land* can conclude agreements between themselves concerning matters of their current scope of competence. The conclusion of such agreements on the part of the Federation requires, depending upon the subject matter, the countersignature of the Federal Government or the Federal Minister. Agreements which are also to bind the organs of the Federal legislation, may be concluded by the Federal Government only with the consent of the National Council, in which cases Article 50, Paragraph (3) is to be applied correspondingly to such resolutions; they are to be promulgated in the *Bundesgesetzblatt*.

(2) Agreements between the *Länder* can only be made concerning matters within their independent field of competence and must be brought to the knowledge of the Federal Government without delay.

(3) The principles of the International Law of Treaties are to be applied to the agreement in the sense of Paragraph (1) of this Article. The same applies to agreements in the sense of Paragraph 2, insofar as it is not determined otherwise through harmonizing Constitutional laws of the concerned *Länder*.

Article 16

(1) The *Länder* can conclude treaties within their independent area of competence, State treaties with states bordering on Austria with their constituent states (*Teilstaaten*).

(2) The *Land* must inform the Federal Government before the initiation of negotiations about such treaties. In advance of their conclusion the *Land* Governor must obtain the consent of the Federal Government. Consent is deemed to have been given, if the Federal Government, within eight weeks from the day that the request has reached the Federal Chancellery, has not communicated to the *Land* Governor that the consent is denied. The authorization for the initiation of negotiations and conclusion of a state treaty is incumbent on the Federal President on the proposal of the *Land* government and with the countersignature of the *Land* Governor.

(3) Upon the request of the Federal Government State treaties, concluded by a *Land* in accordance with Paragraph 1, shall be revoked. If a *Land* does not comply promptly with this obligation, the competence to do so passes to the Federation.

(4) The *Länder* are obligated to take measures, within their independent area of competence, which are necessary for the implementation of State treaties. If a *Länder* fails to comply promptly with this obligation, the competence for such measures, especially with the enactment of the necessary laws, the competence passes to the Federation. A measure taken by the Federation pursuant to this provision, especially a law or an ordinance so enacted, ceases to have force as soon as the *Land* has taken the required measure.

(5) In the same way the Federation has the right of supervision also in such matters as belong to the independent area of competence of the *Länder*. In this the Federation has the same rights against the *Länder* as in matters pertaining to indirect Federal Administration (Article 102).

Article 17

The provisions of Articles 10 to 15 concerning the competence in legislation and execution do not in any way effect the position of the Federation and the *Länder* as holders of private rights.

Article 18

(1) The entire public administration may be exercised only on the basis of the laws.

(2) Every administrative authority may issue ordinances within its area of competence on the basis of the laws.

(3) If the immediate enactment of measures which, according to the Constitution, requires a decision (*Beschlussfassung*) by the National Council, for the prevention (*Abwehr*) of an obvious and irreparable damage to the general public at a time when the National Council is not assembled, or if it cannot meet in due time, or if it is prevented from meeting by *force majeure* (*höhere Gewalt*), the Federal President, on the proposal of the Federal Government on his and their responsibility, may enact these measures through provisional law-amending ordinances. The Federal Government must present its proposal in agreement with the Standing Subcommittee which is to be established by the Main Committee of the National Council (Article 55, paragraph 3). Such an ordinance requires the countersignature of the Federal Government.[\[12\]](#)

(4) Such ordinance enacted in accordance with Paragraph 3 of this Article is to be promptly presented by the Federal Government to the National Council which, if it is not in session at this point in time, is to be convened by the Federal President, but during its session by the President of the National Council on one of the eight days following its presentation. Within four weeks after its presentation, the National Council must either vote a corresponding Federal law in place of the ordinance or by a resolution demand that the ordinance be immediately invalidated by the Federal Government. In the latter case the Federal Government must immediately respond to this demand. In order to effect a timely resolution by the National Council, the President has to present the proposal, which is to be voted, at the latest, on the last day before the expiration of the time limit of four weeks. Specific provisions are provided by the *Federal Law on the Rules of Procedure of the National Council*. If the Ordinance is rescinded by the Federal Government in accordance with legal provisions which had been invalidated by the Ordinance, they regain force on the day of their rescission.[\[13\]](#)

(5) The ordinances referred to in Paragraph 3 of this Article may not amount to a change of constitutional provision and neither may they have for their object a lasting financial burden on the *Länder*, or local communities, nor financial obligations of the citizens, nor an alienation of State property, nor measures concerning matters specified in Article 10 paragraph 1(11), nor, finally, [matters] in the field of the right of coalition (*Koalitionsrecht*) or the protection of tenants.[\[14\]](#)

Article 19

(1) The highest executive authorities (*Organe der Vollziehung*) are the Federal President, the Federal Ministers and the State Secretaries as well as the members of the governments of the *Länder*.

(2) Through Federal law, the permissibility of activity in the private economy on the part of the organs specified in Paragraph (1) and other public functionaries, may be restricted.

Article 20

(1) Under the direction of the highest organs of the Federation and the *Länder*, organs elected for a period of time or appointed professional organs conduct the administration according to the provisions of the laws. They are bound, insofar as constitutionally not provided otherwise, by the directives of their organs and are responsible to them for the conduct of their official

activity. The subordinate organ may refuse compliance with a directive if the directive was either issued by an incompetent organ or if compliance would violate provisions of the criminal code.

(2) If by means of Federal or *Land* law a collegial authority has been established for a decision in the highest instance whose rulings (*Bescheide*), according to the law, are not subject to rescission or change by administrative action and to which includes at least one judge, the other members of this collegial authority are also not bound by any rulings in the exercise of their office.

(3) All Federal *Länder* and communal administrative organs, as well as the organs of other corporations of public law, insofar as not legally provided otherwise, which are entrusted with administrative duties, are obligated to maintain secrecy about all facts which they obtained in their official activity and whose secrecy is in the interest of the maintenance of public quietude, order and security of the universal national defense, foreign relations, in the commercial interest of a corporation of public law, for the preparation of a decision or in the preponderant interest of the parties ([official secrecy—*Amtsverschwiegenheit*]). Official secrecy does not apply (*Besteht*) for functionaries who are appointed by a representative body (*Vertretungskörper*) if such information is expressly demanded.

(4) All organs entrusted with tasks of [pertaining to] Federal, *Land* and Municipality administration as well as the organs of other corporations of public law that have tasks entrusted to them, shall provide information about matters pertaining to their area of competence, insofar as this does not conflict; professional organizations (*Vertretungen*) are only obligated to supply information to members and this only insofar as the orderly fulfillment of their legal tasks is not impeded thereby. Detailed regulations with respect to the organs of the Federation as well as the self-administration which is to be regulated by Federal legislation and execution are the business of the Federation, with respect to the organs of the *Länder* and Municipalities, as well as the self-administration the business of the Federation (*Bundessache*) [is] framework legislation [while] the business of the *Land* is the implementing legislation and its execution.

Article 21

(1) To the *Länder* belongs the legislation and execution in matters of civil service law including the personnel representation law of the employees of the *Länder*, the communes and the communal associations, insofar as these matters in paragraph 2, in Article 14 paragraph (2), paragraph (3)d and paragraph (5)c, and in Article 14a paragraph (2)e and paragraph (3)b are not otherwise provided for. In disputes about contractual service relations the courts decide.[\[15\]](#)

(2) It is incumbent on the *Länder* to take care of legislation and execution in matters of employee protection (par. 1) and the personnel representation of the employees of the *Länder*, insofar as the employees are not engaged in enterprises. To the extent according to the first sentence, the competence of the *Länder*, is not established, the aforementioned matters fall within the competence of the Federation.

(3) Insofar as this law does not provide otherwise, the service prerogative toward the employees of the Federation is exercised by the highest organs of the Federation. The service prerogative toward the employees of the *Länder* is exercised by the highest organs of the

Länder; insofar as this law provides for corresponding exceptions concerning the employees of the Federation, the service prerogative toward the employees of the *Länder* can be exercised by similar organs on the basis of [a] *Land* constitutional Law.

(4) The possibility of an exchange of service between the Federation, the Municipalities, the communal associations remains at all times safeguarded for public employees. Legal provisions are inadmissible if the counting of service times are made differently, depending on whether they were previously earned with the Federation, with a *Land*, with a Municipality or a communal association. In order to facilitate an equalized development of the civil service law, the personnel representation law and the protection of employees in the Federation, the *Länder* and Municipalities, the Federation and the *Länder* are to inform each other about their intentions in these matters.

(5) By law provision can be made that:

1. Civil servants are appointed on a temporary basis for the performance of certain supervisory functions or in cases where this is required by the nature of the service;
2. After the expiration of the temporary period or the change of the organization of the authorities or the legal service structures, no appointment is legally required;
3. Insofar as no competence for appointment, according to Article 66 Paragraph 1 is necessary in the cases of a transfer or a change of employment.[\[16\]](#)

(6) In the cases [specified] in paragraph 5 no claim exists for equivalent employment (*Verwendung*).[\[17\]](#)

Article 22

All organs of the Federation, the *Länder* and the Municipalities are obligated to render mutual assistance within the legal area of activity.

Article 23

(1) The Federation, the *Länder*, the local communities and other public law corporations and institutions are liable to whomever for any damage caused by persons acting in execution of the laws by illegal behavior.[\[18\]](#)

(2) Persons acting as agents (*Organe*) of a legal entity, specified in Paragraph (1) of this Article, insofar as the burden of intent or gross negligence can be laid to them, are liable to the legal entity which has indemnified the injured party.

(3) Persons acting as agents of a legal entity specified in Paragraph (1) are liable for the damage, which they, in execution of the laws, have directly caused the legal entity through illegal behavior.

(4) The more detailed provisions pertaining to Paragraphs (1) to (3) are established by Federal law.

(5) A Federal law may also determine to what extent special provisions pertaining to postal and long-distance communications, which deviate from the principles laid down in Paragraphs (1) to (3) of this article, are valid.

B. European Union

Article 23a

(1) The members to be delegated by the Republic of Austria to the European Parliament are elected by the men and women who have completed 18 years of age at the end of the election day at the latest and who, on the day designated for the election, either possess Austrian citizenship and are not excluded from the right to vote under the terms of the law of the European Union, or who possess the citizenship of another member State of the European Union and are qualified to vote under the law of the European Union, on the basis of equal, direct, secret and personal suffrage and in accordance with the principles of proportional representation. More detailed regulations concerning electoral procedure are provided by Federal law.[\[19\]](#)

(2) The Federal territory constitutes for the elections to the European Parliament a single electoral constituency (*Wahlkörper*).

(3) Eligible for the European Parliament are all men and women who have completed 19 years of age at the end of election day at the latest and who possess, on the day designated for the election, either the Austrian citizenship and are not excluded from the right to vote under the law of the European Union or who possess the citizenship of another member State of the European Union and are qualified to vote under the law of the European Union.[\[20\]](#)

(4) The exclusion from the right to vote and from eligibility can only be the consequence of a sentence by a Court.

(5) The implementation and conduct of the elections to the European Parliament devolves on the electoral boards established for the elections to the National Council. Voting abroad need not take place before an electoral board. More detailed provisions concerning voting abroad can only be passed by the National Council in the presence of at least one-half of the members and by a majority of two-thirds of the votes cast.

(6) The register of voters are drawn up by the communities (*Gemeinde*) within their delegated area of competence.

Article 23b

(1) Public employees who seek a seat (*Mandat*) in the European Parliament shall be given the free time required for the canvassing to obtain the mandate. Public employees who have been elected to membership in the European Parliament shall be released from service (*ausser Dienst*) for the duration of their mandate without official emoluments. Particulars are regulated by law.

(2) University teachers (*Universitätslehrer*) can continue their activity in research and teaching and the examination activity even while they belong to the European Parliament. The

official emoluments for this activity are to be determined in accordance with the tasks actually performed, but may not exceed 25% of the salary of the university teacher. [\[21\]](#)

(3) Insofar as this Federal Constitutional law provides for the incompatibility of functions with membership of the National Council, these functions are also incompatible with membership or former membership of the European Parliament.

Article 23c

(1) The Austrian participation in the nomination of members of the Commission, the Court of Justice, the Court of First Instance, the Court of Accounts, the Administrative Council (*Verwaltungsrat*), or the European Investment Bank, the Economic and Social Committee, as well as the Committee of the Regions within the framework of the European Union is incumbent upon the Federal Government.

(2) For the members of the Commission, the Court of Justice, the Court of First Instance, the Court of Accounts, the Administrative Council, or the European Investment Bank, the Federal Government shall obtain the consent (*Einvernehmen*) of the Main Committee or the Federal Council and shall simultaneously inform the Federal President of its intended decision.

(3) For the members of the Economic and Social Committee the Federal Government shall solicit recommendations by the legally constituted and other professional representatives and various groups of the economic and social life.

(4) The Austrian participation in the nomination of the members of the Committee of the Regions and their alternates shall proceed on the basis of proposals from the *Länder* as well as from the Austrian Federation of Municipalities (*Österreichischen Städtebund*) and the Austrian Federation of Municipalities (*Österreichischen Gemeindebund*). In this the *Länder* shall propose one, the Austrian Federation of Municipalities (and) the Austrian Federation of Municipalities jointly three representatives.

(5) Concerning the members named in accordance with Paragraphs 3 and 4 the Federal Government shall inform the National Council. Concerning the members named in Paragraphs 2, 3, and 4 the Federal Government shall inform the Federal Council.

Article 23d

(1) The Federation must inform the *Länder* without delay of all projects within the framework of the European Union which affect the autonomous area of competence or could otherwise be of interest and [must] give them opportunity to state their position. Such position statements shall be addressed to the Office of the Federal Chancellor. The same applies to the Municipalities, insofar as their area of competence or other important interests of the Municipalities are affected. The representation of the Municipalities in these matters, is incumbent upon the Austrian Federation of Municipalities and the Austrian Federation of Municipalities (Article 115, Paragraph 3).

(2) If the Federation is in possession of a unified statement of position by the *Länder* concerning a project within the framework of the European Union, which concerns matters in which legislation is the business of the *Land*, then the Federation is bound by it in negotiations and voting in the European Union. The Federation may deviate from it only for

compelling foreign policy and integration policy reasons. The Federation must communicate these reasons to the *Länder* without delay.

(3) Insofar as a project within the framework of the European Union also concerns matters, on which legislation is within the competence of the *Land*, the Federal Government can transfer to a representative named by the *Länder*, the participation in the shaping of the decision (*Willensbildung*) in the Council. This authorization is carried out in cooperation and coordination with the competent members of the Federal Government. For such a Representative of the *Länder* Paragraph 2 applies. The Representative of the *Länder* is, in such matters concerning Federal legislation, responsible to the National Council in matters concerning *Land* legislation to the *Land* legislatures (*Landtage*) in accordance with Article 142.

(4) More detailed provisions pertaining to Paragraphs 1 to 3 shall be established by an agreement between the Federation and the *Länder* (Article 15a Paragraph 1).

(5) The *Länder* are obligated to take measures, which within their area of competence, become necessary for the implementation of legal acts within the framework of the European integration; if a *Land* does not meet this obligation on time and if this [is] established by a Court within the framework of the European Union against Austria, then the competence for such measures, in particular the issuance of the necessary laws, passes to the Federation. A measure taken by the Federation, in accordance, in particular such a law or such a decree, ceases to be in force as soon as the *Land* has taken the necessary measures.

Article 23e

(1) The competent member of the Federal Government shall inform the National Council and the Federal Council without delay, about all projects within the European Union and to give them opportunity for a statement of their position.

(2) If the competent member of the Federal Government [is] in possession of a position statement by the National Council concerning a project of the European Union, which is to be transformed into a Federal law, or which is aimed at the issuance of a directly applicable legal act, which concerns matters that would have to be regulated by Federal legislation, then the member [is] bound by this position in the negotiations and voting within the European Union. Deviation from this position is only admissible for pressing foreign and integration policy reasons.

(3) If the competent member of the Federal Government wants to deviate from a position taken by the National Council pursuant to Paragraph 2, then the National Council must again be informed (*befassen*). Insofar as the legal act under preparation by the European Union would constitute a change of the valid Federal Constitutional Law, a deviation is admissible only in any case, if the National Council does object (*widerspricht*).

(4) If the National Council has stated a position pursuant to Paragraph 2, the competent member of the Federal Government must report to the National Council after the vote in the European Union. In particular the competent member of the Federal Government if he or she has deviated from the stated position of the National Council must inform the National Council of the relevant reasons without delay.

(5) The attention (*Wahrnehmung*) for the competences of the National Council pursuant to Paragraphs 1 to 4 is fundamentally incumbent on the Main Committee. The more detailed provisions hereto are provided by the Federal Law on the Procedure of National Council. In this it can be particularly established, to what an extent the attention to (*Behandlung*) projects within the framework of the European Union can, in lieu of the Main Committee a separate independent Subcommittee is to be competent and the attention for the competences pursuant to Paragraphs 1 to 4 is reserved to the National Council itself. For the Permanent Subcommittee Article 55 paragraph 3 applies.[\[22\]](#)

(6) If the competent member of the Federal Government is in possession of a position statement by the Federal Council of a project within the framework of the European Union which requires imperative conversion by means of a Federal Constitutional Law, which pursuant to Article 44 Paragraph 2 requires the consent of the Federal Council, then the member is bound to this position statement in the negotiations and voting in the European Union. It can deviate therefrom only for reasons of foreign and integration policy. The maintenance of the competences of the Federal Council pursuant to Paragraph 1 and this paragraph are regulated by the Rules of Procedure of the Federal Council. In this it can be especially regulated to what extent the treatment of projects within the framework of the European Union instead of the Federal Council a specially designated committee is designated and the maintenance of the competencies according to Paragraph 1 and this paragraph is reserved to the Federal Council.[\[23\]](#)

Article 23f[\[24\]](#)

(1) Austria participates in the common foreign and security policy of the European Union on the basis of Title V of the Treaty on the European Union in the version of the Treaty of Nizza. This includes the participation in tasks according to Article 17(2) of this Treaty, as well as measures, with which the economic relations to one or several third [world] countries are suspended, limited or totally terminated. Decisions of the Council of Europe to a common defense of the European Union as well as to an integration into the European Union require the resolution of the National Council and the Federal Council in corresponding application of Article 44 (1 & 2).

(2) For resolutions within the framework of the common foreign and security policy of the European Union on the basis of Title V as well as the resolutions within the framework of the police and justice cooperation in penal matters on the basis of Title VI of the Treaty on the European Union, in the version of the Treaty of Nizza Article 23e (2 to 5) applies.

(3) With respect to resolutions pertaining to peace-keeping tasks as well as commitment of combat forces for the overcoming of crisis as well as with resolutions pursuant to Article 17 of the Treaty of the European Union in the version of the Treaty of Nizza concerning the step-by-step determination of a common defense policy and the narrower institutional relations with the West European Union, the right to vote is to be exercised in agreement between the Federal Chancellor and the Minister of Foreign Affairs.

(4) A consent to measures pursuant to paragraph 3, if the decision to be made would entail Austria's obligation to send units or single persons, may only be given with reference to the required constitutional procedures for the implementation of the dispatchment abroad of units or single persons.

CHAPTER II Legislation of the Federation

A. National Council (*Nationalrat*)

Article 24

The legislative function (*Gesetzgebung*) of the Federation is exercised by the National Council jointly with the Federal Council.

Article 25

(1) The seat of the National Council is the Federal Capital, Vienna.

(2) For the duration of the extraordinary circumstances the Federal President, on the proposal of the Federal Government, may convoke the National Council in another place within the Federal territory.

Article 26

(1) The National Council is elected [by] the Federal Nation (*Bundesvolk*) on the basis of equal, direct, and personal suffrage of men and women who have completed 18 years of age [at] the end of the election day at the latest. By Federal law more detailed provisions are made concerning the electoral procedure.[\[25\]](#)

(2) The Federal territory is divided into spatially closed electoral districts, whose boundaries may not cut through the boundaries of the *Länder*. The number of Deputies is divided among the qualified voters of the constituencies (*Wahlkörper*) in proportion to the number of State citizens who according to the result of the last election had their principal domicile in a particular constituency (*Wahlkreis*) augmented by the number of those, who although on the day of the census day (*Zähltag*) did not have their principal residence in a Municipality of the particular constituency, but were entered into the electoral register (*Wählerevidenz*), in the same manner the number of Deputies allocated in a constituency is allocated among regional constituencies. The Electoral regulation (*Wahlordnung*) of the National Council shall provide for a final allocation procedure for the entire Federal territory, through which an adjustment (*Ausgleich*) is made between the competing parties of the not yet allocated seats according to the principles of proportional representation. A structuring of the electorate into other electoral bodies is not admissible.

(3) The election day must be a Sunday or public holiday. If circumstances arise which impede the beginning, continuation or termination of the electoral activity, the electoral board may prolong the electoral activity until the next day or postpone it.

(4) Eligible for the National Council are all men and women who, on the designated day, possess Austrian citizenship und have completed 19 years of age at the end of the election day at the latest.[\[26\]](#)

(5) The exclusion from the right to vote and from eligibility can only be the consequence of a sentence by a court.

(6) For the conduct and management of the elections for the National Council, the election of the Federal President and for popular referenda as well as for the participation in the scrutiny of popular initiatives and plebiscites (*Volksbefragungen*) election boards are to be established to which shall be attached assessors with voting rights [as] representatives of the participating political parties, moreover at the Federal electoral offices, the assessors shall include members who belong or have belonged to the judicial establishment (*richterlichen Stand*). The number of these assessors is to be established in the Electoral Code—aside from the assessors who come from the judicial establishment—is to be distributed to the participant political parties according to the strength ascertained by the last election to the National Council. The voting abroad in elections to the National Council, the election of the Federal President, as well as popular referenda need not take place before an electoral board. Detailed provisions concerning the voting abroad can be adopted only by the National Council in the presence of at least one-half of the members and by a two-thirds majority of the votes cast.

(7) The Electoral registers are drawn up by the Municipalities as part of their assigned area of competence (*übertragenen Wirkungsbereich*).

Article 27

(1) The legislative period of the National Council lasts four years, counted 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 is to be convened by the Federal President at the latest within thirty days after the election. It is to be arranged by the Federal Government so as to enable the newly elected National Council to meet on the day after the expiration of the fourth year of the legislative period.

Article 28

(1) The Federal President convokes the National Council each year for an ordinary session which shall not begin before September 15 and last not longer than July 15 of 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 Council demand it, the Federal President is obligated to convoke the National Council for an extraordinary session, and moreover so, that the National Council meet within two weeks from the time of the receipt of the request by the Federal President. The convocation does not require a countersignature. For the convocation of an extraordinary session on the request of members of the National Council or on the request of the Federal Council no recommendation by the Federal Government is required.

(3) The Federal President declares the end of the sessions of the National Council on the basis of a decision by the National Council.

(4) At the opening of the new session of the National Council within the same legislative period, the activities (*Arbeiten*) will be continued on the basis of the stage in which they were at the conclusion of the last session. At the conclusion of a session individual committees can be directed by the National Council to continue their work.

(5) Within a session the President of the National Council convokes the individual sittings. If during a session the number of members specified of the National Council or the Federal Council demand it, the President is obligated to convoke a session, in particular, so that the National Council can convene within eight days after the receipt of the request by the President.

If within a session of the National Council the specified number of members, as fixed in the Rules of Procedure of the National Council, requests it, then the President is obligated to convene a session. Details are provided by the Federal Law concerning the Procedure of the National Council, which must also set a time limit, within which the National Council must meet.[\[27\]](#)

(6) In case that the elected Presidents of the National Council are impeded in the exercise of their office or if their offices are concluded (*erledigt*) the special provisions of the Federal law of the Procedure of the National Council concerning the convocation of the National Council shall apply.

Article 29

(1) The Federal President may dissolve the National Council, but he may do so only once for the same cause. A new election in such case is to be ordered by the Federal Government so as to enable the newly elected National Council to convene, at the latest on the hundredth day after the dissolution.

(2) Before the expiration of the legislative period, the National Council may by a simple law vote on its own dissolution.

(3) After the dissolution, carried out in accordance with Paragraph 2 [of this Article] as well as after the expiration of the time for which the National Council is elected, the legislative period lasts until the day on which the newly elected National Council meets.

Article 30

(1) The National Council elects from among its members the President, the second and third President.

(2) The activities (*Geschäfte*) of the National Council are conducted on the basis of a special Federal law. The Federal law on the Rules of Procedure (*Geschäftsordnung*) of the National Council can be passed only if at least one-half of the members are present and by a two-thirds majority of the votes cast.[\[28\]](#)

(3) For the support of the parliamentary tasks and for the caretaking of administrative matters in the area of the organs of the legislation of the Federation, as well as similar tasks and administrative matters which concern the Deputies of the Republic of Austria who are sent to the European Parliament, the Directorate of the Parliament is called upon, which is subordinated to the President of the National Council. The internal organization of the parliamentary directorate for the matters pertaining to the Federal Council shall be regulated in agreement with the Chairman of the Federal Council who is also provided with the right to issue directives (*Weisungsrecht*) for the implementation of the functions (*Aufgaben*) assigned on the basis of this law to the Federal Council.[\[29\]](#)

(4) To the President of the National Council belong particularly also the power to appoint the employees of the Parliamentary Directorate and all other powers (*Befugnisse*) in personnel matters of these employees.

(5) The President of the National Council may assign employees of the Directorate of the Parliament to the parliamentary clubs for the fulfillment of parliamentary tasks.

(6) In the execution of the administrative matters which, according to this Article, belong to the President of the National Council, he is the highest administrative authority and [he] alone exercises these powers. The issuance of decrees belongs to the President of the National Council insofar as they concern exclusively administrative matters regulated in this Article.

Article 31

For a vote of the National Council, insofar as it is not otherwise provided for in this law or in the Federal Law concerning the Procedure of the National Council for particular matters, the presence of at least one-third of the members and the absolute majority of the votes cast is required.

Article 32

(1) The sessions of the National Council are public.

(2) The public is excluded if the Chairman or the number of members established in the Federal Law on the Procedure of the National Council demand it and [if], after the exclusion of the audience, the National Council votes for it.

Article 33

Truthful accounts concerning the proceedings in the public sessions of the National Council and its committees are free from any kind of responsibility.

B. Federal Council (*Bundesrat*)

Article 34

(1) In the Federal Council, the *Länder* are represented in proportion to the number of citizens in the *Land* according to the following principles.

(2) The *Land* with the greatest number of citizens sends twelve, every other *Land* as many members as correspond proportionately to the first mentioned number of citizens, with remainders which exceed one-half of the proportional number counting as full. Every *Land*, however, is entitled to a representation of at least three members. For each member an alternate member (*Ersatzmitglied*) is appointed.

(3) The number of members to be sent by each *Land* is determined by the Federal President after every general census.

Article 35

(1) The members of the Federal Council and their alternates are elected by their *Land* Legislature (*Landtage*) for the duration of their legislative periods according to the principle of proportional representation; however, at least one seat (*Mandat*) must fall to the party which has the second highest number of seats in the *Landtag*, or, if several parties have the same number of seats, the one with the second highest number of electoral votes in the last *Land* Legislature election. In the event of equal claims by several parties a decision will be made by lot.

(2) The members of the Federal Council do not have to belong to the *Land* Legislature which sends them; they must, however, be eligible to this *Land* Legislature.

(3) Upon the expiration of the legislative period of a *Land Legislature* or after its dissolution the members who have been sent by it to the Federal Council continue to exercise their function until the new *Land Legislature* has undertaken the election to the Federal Council.

(4) The provisions of Articles 34 and 35 can only be amended—apart from the majority of votes which is required for the adoption of a resolution—if a majority of the representatives in the Federal Council from at least four *Länder* has accepted the amendment.

Article 36

(1) In the chairmanship of the Federal Council, the *Länder* alternate semiannually in alphabetical order.

(2) The Representative who leads the delegation of the *Land* entitled to the Chairmanship, functions as Chairman; the appointment of the Deputies is regulated by the Rules of Procedure of the Federal Council. The Chairman carries the title “President of the Federal Council”, his Deputies carry the title “Vice President of the Federal Council.”

(3) The Federal Council is convoked by its chairman at the seat of the National Council. The chairman is obligated to convoke the Federal Council immediately if it is demanded by at least a quarter of its members or by the Federal Government.

(4) The *Land* Governors are entitled to participate in all proceedings of the Federal Council. They have the right, in accordance with the particular provisions of the Rules of Procedure of the Federal Council, to be heard every time on matters relating to their *Land*.

Article 37

(1) For a Resolution of the Federal Council, insofar as not provided otherwise in this law, the presence of at least one-third of the members and an absolute majority of the votes cast is required.

(2) The Federal Council provides itself with Rules of Procedure by Resolution. This Resolution can only be adopted in the presence of one-half of the members and at least a two-thirds majority of the votes cast. In the Rules of Procedure, provisions can be made which extend beyond the internal scope of the Federal Council, insofar as this is necessary for the regulations for the management of its business (*Geschäftsbehandlung*). The Rules of Procedure have the effect of a Federal Law; it is to be published in the *Federal Law Gazette*.

(3) The sessions of the Federal Council are public. The Public (*Öffentlichkeit*) can, however, be excluded by Resolution in accordance with the Rules of Procedure. The provisions of Article 33 apply also to public sessions of the Federal Council and its Committees.

C. Federal Assembly (*Bundesversammlung*)

Article 38

The National Council and the Federal Council meet as [the] Federal Assembly at the seat of the National Council in joint public session for the swearing in (*Angelobung*) of the Federal President; furthermore, for the adoption of a resolution concerning a declaration of war.

Article 39

(1) The Federal Assembly—apart from the cases [referred to] in Article 60, Paragraph 6, Article 63, Paragraph 2, Article 64, Paragraph 4, and Article 68, Paragraph 3—is convoked by the Federal President. The chairmanship alternates between the President of the National Council and the Chairman of the Federal Council, initially by the former.

(2) In the Federal Assembly, the Federal Law on the Rules of Procedure of the National Council is applied correspondingly (*sinngemäss*).[\[30\]](#)

(3) The provisions of Article 33 are valid also for the sessions of the Federal Assembly.

Article 40

(1) The resolutions of the Federal Assembly are authenticated (*beurkundet*) by its chairman and countersigned by the Federal Chancellor.

(2) The resolutions of the Federal Assembly concerning a declaration of war, are officially published by the Federal Chancellor.

D. The Procedure of the Federal Legislation

Article 41

(1) Legislative proposals come to the National Council either as proposals by its members by the Federal Council or by one-third of the members of the Federal Council as well as bills of the Federal Government.

(2) Every motion presented by 100,000 voters or by one-sixth of the voters in each of three *Länder* (*Volksbegehren*) is to be submitted to the National Council by the Federal Election Board for discussion. Entitled to vote in popular initiatives (*Volksbegehren*) is [anyone] who on the last day of the period set for registration in support of the motion has the right to vote for the National Council and has a principal domicile in a Municipality on the Federal territory. The popular initiative must concern a matter to be regulated by Federal law and can be presented in the form of a Draft Law.[\[31\]](#)

Article 42

(1) Every legislative act (*Gesetzesbeschluss*) of the National Council is to be transmitted without delay by its President to the Federal Council.

(2) A legislative act, unless otherwise provided for by Constitutional law, may only be authenticated and published if the Federal Council has not raised a reasonable objection.

(3) This objection must be transmitted to the National Council within eight weeks upon receipt of the legislative enactment at the Federal Council by its President; the Federal Council is to be informed.

(4) If the National Council reaffirms (*wiederholt*) its original resolution in the presence of at least half of its members, it must be authenticated and published. If the Federal Council decides not to raise any objection, or if no reasoned objection is raised within the time period fixed in Paragraph 3, the legislative act is to be authenticated and published.

(5) Insofar as the legislative resolutions of National Council concern the Rules of Procedure of the National Council, the dissolution of the National Council, a Federal finance law, a provisional provision (*Vorsorge*) in the sense of Article 51, Paragraph 5 or a disposal of Federal property, the assumption or conversion of a liability of the Federation or the approval of a final Federal budget account, the Federal Council has no claim to participation.

Article 43

Every legislative act of the National Council, upon conclusion of the procedure in accordance with Article 42, but before its authentication by the Federal President, is to be submitted to a popular referendum, if the National Council so decides or if the majority of the members of the National Council demand it.

Article 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 one-half of the members and with a majority of two-thirds of the votes cast; they are to be expressly designated as such (“constitutional law”, “constitutional provision”).

(2) Constitutional law or constitutional provisions contained in ordinary laws which restrict the competence of the *Länder* in legislation or execution, require furthermore the approval, in the presence of at least one-half of the members of two-thirds, by a two-thirds majority of the votes cast.

(3) Every total revision (*Gesamtänderung*) of the Federal Constitution, a partial revision, only this is demanded by one-third of the members of the National Council or the Federal Council, upon completion of the procedure in accordance with Article 42, but before the authentication by the Federal President, is to be submitted to a referendum (*Abstimmung*) by the entire nation (*Bundesvolk*).

Article 45

(1) In the popular referendum the absolute majority of the validly cast votes decides.

(2) The result of the popular referendum is to be officially announced.

Article 46

(1) The procedure for the popular initiative and the popular referendum is regulated by Federal law.

(2) Entitled to vote is every Federal citizen who is qualified to vote for the National Council on the day of the ballot.[\[32\]](#)

(3) The Federal President orders the popular referendum.

Article 47

(1) The constitutional enactment of Federal laws is authenticated by the Federal President.[\[33\]](#)

(2) The presentation for authentication is made by the Federal Council.

(3) The authentication is to be countersigned by the Federal Chancellor.

Article 48

Federal laws and treaties approved in accordance with Article 50 are published with reference to the resolution of the National Council, Federal laws which are based on a popular referendum [are to be published] with reference to the result of the popular referendum.[\[34\]](#)

Article 49[\[35\]](#)

(1) The Federal laws shall be promulgated by the Federal Chancellor in the *Federal Law Gazette*. Unless explicitly stated otherwise, they enter into force at the end of the day of their promulgation and apply to the entire Federal territory.

(2) The State treaties approved in accordance with Article 50(1) shall be promulgated by the Federal Chancellor in the *Federal Law Gazette*. On the occasion of the approval of a State treaty referred to in Article 50, the National Council may decide that the promulgation of the State treaty or clearly designated individual parts of such treaty shall take place in a different manner; such decisions of the National Council shall be promulgated by the Federal Chancellor in the *Federal Law Gazette*. Unless explicitly stated otherwise, State treaties approved in accordance with Article 50 (1) enter into force at the end of the day of their promulgation—in the case mentioned in the second sentence at the end of the day of the promulgation of the decision of the National Council—and apply to the entire Federal territory; this does not apply to State treaties the implementation of which requires the adoption of legislative provisions (Art. 50 (2)).

(3) Publications in the *Federal Law Gazette* as well as those mentioned in paragraph 2, second sentence, have to be generally accessible and identifiable in their original form in their totality and for the whole duration of their validity.

(4) More detailed provisions on the promulgation in the *Federal Law Gazette* will be enacted by Federal Law.

Article 49a^[36]

(1) The Federal Chancellor is empowered jointly with the competent Federal Ministers to republish Federal laws, with the exception of this Law, and State treaties that have been publicized in the *Federal Gazette* through publication of their current version in the *Federal Law Gazette*.

(2) In the notification of the re-promulgation:

1. Obsolete terminological expressions may be rectified and outmoded writing styles may be assimilated to the new writing style.

2. References to other legal norms which no longer correspond with the present state of legislation, as well as other inconsistencies may be rectified.

3. Provisions which have been superseded by later legal regulations or have otherwise been rendered superfluous (*gegenstandslos*) can be declared to be no longer valid.

4. Abridgements of titles and spelling abbreviations (*Buchstabenabkürzungen*) of titles may be established.

5. The designation of Articles, paragraphs, sections and the like may in cases of elimination or insertion of single provisions be correspondingly altered and, in connection with this, references within the text correspondingly rectified.

6. Transitory provisions as well as still applicable earlier versions of the pertinent Federal law (State treaty) may be condensed, subject to identification of their scope of application.

(3) Unless otherwise stated, the re-promulgated Federal Law (the republished State Treaty) and the other orders contained in the re-promulgation enter into force at the end of the day of promulgation.

Article 49b

(1) A popular referendum, on a matter of fundamental and all-Austrian (*gesamtösterreichisch*) significance, to whose regulation the Federal legislator is competent, must take place, if the National Council on the basis of a motion by its members or the Federal Government, after prior consultation so decides in the Main Committee. Elections, as well as matters over which a Court or an administrative authority decide, cannot be a subject of a popular referendum.

(2) A motion pursuant to Paragraph 1 must contain a recommendation for the formulation of the question which is to be the basis of the popular referendum. This must consist either of a question to be answered “yes” or “no” or two alternative solution proposals.

(3) Popular referenda shall be conducted in a manner corresponding to Articles 45 and 46. Entitled to vote in referenda is [anyone] who on the day of the referendum possesses the right to vote for the National Council and has the principal domicile in a Municipality on the Federal territory. The Federal Election Board must present the result of the popular referendum to the National Council as well as to the Federal Government.^[37]

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

Article 50

(1) Political State treaties, [and] others insofar as their contents are law-amending or law-supplementing and do not fall under Article 16 Paragraph 1 may only be concluded with the authorization of the National Council. To the extent that such State treaties regulate matters within the independent area of competence, they require, moreover, the consent of the Federal Council.

(2) At the time of the approval of a State treaty, which falls under Paragraph 1 of this Article, the National Council may resolve that the State treaty is to be implemented through the enactment of laws.

(3) The provisions of Article 42, Paragraphs 1 to 4, and, if constitutional law is modified or supplemented by the State treaty, the provisions of Article 44, Paragraph 1 are to be meaningfully (*sinngemäß*) applied to the resolutions of the National Council according to Paragraphs 1 and 2 of this Article. In a resolution of approval in accordance with Paragraph 1 of this Article, such State treaties or such provisions contained in State treaties are to be expressly designated as “amending the constitution” (*verfassungsändernd*).

Article 51

(1) The National Council votes (*beschliesst*) the Federal Finance Law; the deliberations are to be based on the Drafts of the Federal Government.

(2) The Federal Government shall present the Federal Finance Law to the National Council at the latest ten weeks before the end of the fiscal year.

(3) The Federal Finance Law shall include as annexes the estimate of revenues and expenditures of the Federation, the positions plan (*Stellenplan*) for the following financial year as well as other basic elements significant for the management of the economy during the year in question. With respect to Federal enterprises and (Federal) special assets the Federal budget estimates can only include grants towards the coverage of deficits and the accruing surpluses. In this case, however, the revenues and the expenditures of the particular Federal enterprise or the special assets of the Federation for the following financial year shall be identified separately in an annex to the Federal Finance Law.

(4) If the Federal Government did not submit the Draft of the Federal Finance Law to the National Council, a draft of a Federal Finance Law can also be introduced on the motion of its members. If the Federal Government subsequently presents a draft of a Federal Finance Law, the National Council can decide to use this draft as the basis for its deliberations.

(5) If the National Council does not adopt a Federal Finance Law before the expiration of the fiscal year and if it does not make a temporary provision by a Federal law, the revenues shall be raised in accordance with the prevailing legal situation. The expenditures shall:

1. Insofar as the Federal Government has presented the Draft of a Federal Finance Law, [the expenditure shall] be made pursuant to this draft until the entering into legal force of its regulation, but at the longest during the first four months;

2. Insofar as the Federal Government has not presented a Draft of a Federal Finance Law, or if in the case of Subparagraph 1 the first four months of the following fiscal year have expired [the expenditures shall be made] pursuant to the expenditure amounts contained in the last Federal Finance Law.

Taking into account changes made on the basis of laws in the amounts of revenues and expenditures, the amounts of expenditures to be appropriated in a Draft Federal Finance Law or the last Federal Finance Law, pursuant to Subparagraphs 1 and 2, constitute the highest amounts (*Höchstgrenzen*) of admissible expenditures, whereby one-twelfth of the appropriations shall be the foundation for each month. However, the fulfillment of the expenditures based on the liabilities must be made according to their maturity. Pursuant to the provisions of Subparagraphs 1 and 2 planned positions (*Planstellen*) can be filled on the basis of the Draft Federal Finance Law or the last Federal Finance Law, financial debts up to one-half of the respective anticipated maximum amounts (*Höchstbeträge*) and short-term commitments can be incurred for a provisional strengthening of cash holdings. Furthermore, the provisions of last Federal Finance Law shall be applied correspondingly, with the exception of the revenues and expenditures contained therein.

(6) The more detailed provisions concerning the construction (*Erstellung*) of the Federal Finance Law and fiscal management of the Federation shall be made in accordance with uniform principles by Federal law. In it shall be regulated, in particular, the mode of procedure with respect to the contracting and transforming of liabilities from the procurement of funds (*Geldmittelbeschaffungen*) which are not due for redemption within the same fiscal year, or from long-term financing (financial debts), [with respect] to the execution of prior encumbrances, the formation of budgetary reserves, the disposal of Federal assets and the assumption of Federal liabilities as well as the participation of the Court of Accounts in the ordering (*Ordnung*) of the Accounting System.

Article 51a

(1) The Federal Minister for Finance must take care that in the management of the economy all the expenditures that are due for the fulfillment of commitments are put first and then the remaining anticipated expenditures are made but only in keeping with the disposable revenue, observing the principles of thrift, economic efficiency and appropriateness (*Zweckmässigkeit*).

(2) If the development of the revenues and expenditures require it or [if] in the course of the fiscal year a substantial change in the overall economic development has been recorded (*abgezeichnet*):

1. The Federal Minister for Finance can order the entire or partial application of an anti-cyclical budget (*Konjunkturausgleichsvoranschlag*) which is anticipated in the Federal Finance Law;

2. The Federal Minister for Finance can order, with the consent of the Federal Government, a temporary freeze of expenditures (*Ausgabenbindungen*) for a time of six months at the

longest, or provide for a final freeze of expenditures, provided that the fulfillment of due commitments is not affected thereby.

Article 51b

(1) Expenditures of a kind that are not provided for in the Federal Finance Law (unplanned expenditures) or which require an overstepping of expenditure appropriations (supra-planned expenditures) of the Federal Finance Law, may be made only within the framework of the management on the basis of empowerments by the Federal Finance Laws.

(2) However, [in cases] of unforeseeable and unavoidable danger by delay, on the basis of ordinance of the Federal Government, in agreement with the Committee of the National Council which has been entrusted with the preliminary deliberation concerning Federal Finance Law

1. Extra plan expenditures (*ausserplanmässige*) [can be made] to the extent of one-thousandth, at the most, of the overall expenditures anticipated in the Federal Finance Law.

2. Expenditures above the plan (*überplanmässige*) to the extent of two-thousandths, at the most, of the overall expenditures anticipated in the Federal Finance Law. If the Committee of the National Council, which has been entrusted with the preliminary deliberations, does not reach a decision within two weeks, the agreement is considered established.

(3) With the consent of the Federal Minister for Finance supra-planned expenditures may be made if these expenditures [are required]

1. On the basis of a legal obligation.

2. By an existing financial debt.

3. On the basis of another commitment already in existence.

4. As the outcome of directly connected additional expenditures and revenues.

(4) The National Council can empower the Federal Minister for Finance in the Federal Finance Law to consent to expenditures, other than the supra-planned (*überplanmässig*) expenditures, specified in Paragraph 3. This empowerment may only be conveyed insofar as the transcendence is materially (*sachlich*) connected and specified in numbers or calculable as well as related to expenditures

1. whose rearrangement (*Umschichtung*) is necessary because of unforeseeable urgency, without substantially changing the structure of the arrangement of the estimates of expenditures in the Draft Federal Budget, or

2. which become necessary, if in the course of the fiscal year substantial change in the overall economic development has been recorded (Article 51a Paragraph 2) or

3. if, with a view to the overall anticipated total expenditures in the Federal Finance Law are of lesser importance.

(5) A transcendence of expenditures on the basis of the provisions of this Article may only be authorized if the coverage is secured by savings or by additional revenues.

(6) In the case of a state of defense (*Verteidigungsfall*) for the purpose of comprehensive national defense (Article 9a), unavoidable expenditures outside and beyond those planned, may only be made up to a maximum of 10 percent of the anticipated total sum of expenditures provided for in Federal Finance Law, on the basis of an ordinance of the Federal Government [made] in agreement with the Committee of the National Council [which is] entrusted with the preparation of the Federal Finance Law. Insofar as the coverage for such additional expenditures cannot be secured by savings or by additional revenues, the ordinance shall empower the Federal Minister for Finance to achieve the required coverage by contraction (*Eingehen*) or conversion of financial debts.[\[38\]](#)

Article 51c

(1) The participation of the National Council in the management of the economy, pursuant to Article 51 Paragraph 2, is incumbent on the committee of the National Council entrusted with the preliminary deliberation (*Vorberatung*) of the Federal Finance Law. It can also entrust certain tasks to a permanent Subcommittee, which is charged with the participation in the management of the economy when the National Council is dissolved by the Federal President in accordance with Article 29 Paragraph 1. The Committee entrusted with the preliminary deliberation of Federal Finance Laws or its Permanent Subcommittee shall also be convened outside the sessions of the National Council (Article 28) if the need arises. Detailed provisions are specified by the Federal law concerning the procedure of the National Council.

(2) The Federal Minister of Finance shall report quarterly, pursuant to Paragraph 1 as well as Article 51a Paragraph 2 and Article 51b Paragraph 2 to 4, on the measures taken. Further reports shall be transmitted in conformity with special Federal regulations (*Vorschriften*).

Article 52

(1) The National Council and the Federal Council are authorized to examine the administrative management of the Federal Government, to question its members about all matters pertaining to the execution and to demand all relevant information as well as to give expression to their wishes about the exercise of the execution through resolutions.

(2) Rights of control, pursuant to Paragraph 1, with respect to the Federal Government and its members, apply also to enterprises, in which the Federation participates with at least 50 percent in the stock, share or equity and which are subject to the control of the Court of Accounts. Such a financial participation shall be considered equivalent to the control (*Beherrschung*) of enterprises by other economic or organizational measures. This applies also to enterprises of every further level, in which the prerequisites, pursuant to this Paragraph, are present.

(3) Every member of the National Council and the Federal Council is entitled to address short oral questions to the members of the Federal Government in the sessions of the National Council or the Federal Council.

(4) More detailed regulations concerning the right of inquiry are provided by the Federal Law pertaining to the Rules of Procedure of the National Council or the Rules of Procedure of the Federal Council.

Article 52a

(1) For the scrutiny of the measures for the protection of the constitutionally established institutions and their operational capacity as well as the intelligence measures for the security of the military national defense, the competent committees of the National Council each elect one Permanent Subcommittee. Each Subcommittee must include at least one member from each party which is represented in the Main Committee.

(2) The Permanent Subcommittees are authorized to request from the competent Federal Ministers all relevant information and insight into the relevant documents (*Unterlagen*). This does not apply to information, particularly to sources, whose disclosure would endanger national security or the safety of humans.

(3) The Permanent Subcommittees may also meet outside the sessions of the National Council if the necessity arises.

(4) More detailed regulations are provided by the Federal Law pertaining to the Procedure of the National Council.

Article 52b

(1) For the scrutiny of a specific proceeding in a matter subject to the Court of Accounts of the Federal financial management, the Committee, pursuant to Article 126d Paragraph 2 elects a Permanent Subcommittee. This Subcommittee must include at least one member from each party which is represented in the Main Committee.[\[39\]](#)

(2) More detailed regulations are provided by the Federal Law pertaining to the Procedure of the National Council.

Article 53

(1) By resolution, the National Council can establish committees of inquiry.

(2) The detailed regulations concerning the establishment of committees of inquiry are provided by the Federal Law on the Procedure of the National Council.

(3) The Courts and all other authorities are obligated to comply with the requests of these committees for evidence; all public offices must, on demand, produce their files.

Article 54

Abrogated.[\[40\]](#)

Article 55[\[41\]](#)

(1) The National Council elects from its midst the Main Committee according to the principle of proportional representation.

(2) The Main Committee shall also be convoked between the sessions of the National Council (Art. 28) if the need arises.

(3) The Main Committee elects a permanent subcommittee which has the powers specified in this law. The election takes place in accordance with the principle of proportional representation; with respect for this fundamental principle the subcommittee must include at least one member of each party represented in the Main Committee. However, the Federal law concerning the procedure of the National Council must provide that the permanent subcommittee can be convoked at any time and can meet. If the National Council is dissolved by the Federal President in accordance with Article 29 (1) the participation is incumbent on the permanent subcommittee to share in the execution, which otherwise according to this law belongs to the National Council (Main Committee).

(4) By Federal law it can be established that certain general Acts of the Federal Government or a Federal Minister require the agreement by the Main Committee as well as reports to the Main Committee by the Federal Government or a Federal Minister. More detailed provisions, especially in case that no agreement has been reached, are provided for by the Federal law on the procedure of the National Council.

(5) For decrees of the competent Federal Minister concerning directive measures for the undisturbed production or the provisionment of the population and other needy persons with important economic and needed goods the agreement of Main Committee of the National Council is to be sought, whereby in the case of lifting of such decrees, special legal regulations can be made. Decisions of the Main Committee with which such agreements are conveyed, can only be made with an attendance of at least one-half of the members and a majority of two-thirds of the votes.

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

Article 56

(1) The members of the National Council and the members of the Federal Council are not bound by any mandate in the exercise of their function.

(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 after he has left office, in the cases, of Article 71 after release from function (*Betrauerung*) with continuation of the administration, provided that he has not advised the board within eight days of his disclaimer to the renewed exercise of his mandate.

(3) This renewed assignment ends the mandate of that member of the National Council who has held the seat of the temporarily retired member insofar as another, subsequent member of the National Council did not on the occasion of nomination to the seat in the same constituency declare to the Electoral Board the desire to exercise the mandate as deputy for the temporarily retired member of the National Council.

(4) Paragraphs 2 and 3 also apply if a member of the Federal Government or a State Secretary has not accepted the election to membership of the National Council.

Article 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 offense—the case of apprehension in the act of committing a crime excepted—be arrested only with the consent of the National Council. Likewise, searches of houses of members of the National Council require the consent of the National Council.

(3) Otherwise members of the National Council may only be officially prosecuted on account of a punishable act, with the consent of the National Council, if it has obviously no connection with the official activity of the deputy in question. However, the agency (*Behörde*) must seek a ruling from the National Council concerning the existence of such a connection if the concerned deputy or a third of the members of the Standing Committee [which is] entrusted with these matters, demand it. In case of such a demand, any official prosecuting action must immediately cease or be terminated.

(4) The consent of the National Council must be deemed granted in all these cases, if the National Council has not given a ruling within eight weeks to the request by the agency which is competent to initiate the prosecution. In order to meet the deadline date (*Rechtzeitig*) for a ruling by the National Council, the President [of the National Council] must call for a vote at the latest one the day before the expiration of the deadline. The time when [the National Council] is not in session is not included in the deadline.

(5) In case of apprehension in the act of committing a crime, the agency must immediately notify the President of the National Council of the executed arrest. If the National Council, or, during the session-free time, the Standing Committee which is entrusted with these matters, demands it, the arrest must be lifted and the prosecution dropped altogether.

(6) The immunity of the deputies ends on the day of the convening of the National Council, [the immunity] of organs of the National Council, whose functions extend beyond this point in time [ends] with the expiration of this function.

(7) More detailed provisions are made by the Federal Law on the Rules of Procedure of the National Council.

Article 58

The members of the Federal Council enjoy during the entire duration of their functions the immunity of members of the *Land* legislature, which has sent them.

Article 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.

Article 59a[42]

(1) To the public employee who seeks a mandate in the National Council shall be given the required free time for the canvassing of the mandate.

(2) The public employee, who is a member of the National Council or of the Federal Council, shall on his request be free from service or be retired. During the exemption from service, the service payments shall be in the amount which corresponds to the work actually performed during the service relationship, however, at the most 75 percent of the service payments. This limit also applies when no claim is made neither to the service exemption nor to the retirement. The retirement results in the forfeiture of service payments.

(3) If the public employee cannot be put to work in his existing place of work because of the performance of his mandate, then he has a claim to an equivalent activity—[or] with his consent to the assignment of a nonequivalent activity. The service payments are determined according to the actual activity of the employee.

Article 59b[43]

(1) For the control of the payments to the publicly employed, who were elected to members of the National Council or the Federal Council, a Commission is established at the Directorate of the Parliament. To the Commission belong:

1. a Representative nominated by the President of the National Council;
2. two Representatives nominated by the President of the Federal Council with the consent of the Vice President;
3. two Representatives of the *Länder*;
4. two Representatives of the Municipalities;
5. a member who formerly exercised a judicial office.

The members, according to numbers 3 to 5 shall be nominated by the Federal President, with the Federal Government bound by recommendations (Art. 67) in the case of number 3 by a joint recommendation of the *Land* captains (*Landeshauptleute*); and in the case of number 4 by a recommendation of the Austrian Federation of Municipalities, and a recommendation of the Austrian Federation of Cities. The members of the Commission, according to numbers 1 to 4 must be persons who formerly exercised a function in the sense of Article 19(2). A member cannot be, who exercised a profession with the intention of income. The membership in the Commission ends with a legislative period, but not before the nomination and appointment of a new member.

(2) The Commission on the request of a public employee, who is a member of the National Council or the Federal Council, or on the request of his service authority takes a position on differences of opinion between the public employee and his service authority, which arise in the implementation of Article 59a or concerning directives issued in compliance with its execution. The Commission takes a position also in such differences of opinion between the Judge and a Senate or a commission in the sense of Article 87 (2), as well as differences of

opinion between a member of the National Council or the Federal Council and the President of the National Council in the implementation of Article 30(3).

(3) The member of the National Council or the Federal Council, who is a public employee, is obligated to inform annually, which regulation it has taken concerning his exemption from service or retirement concerning Article 59a and what manner the work performance required of him is to be examined. For findings (*Erhebungen*) of the Commission, Article 53(3) applies correspondingly. The Commission establishes Rules of procedure for itself. The Commission has to provide the National Council—[and] insofar as members of the Federal Council are concerned—a report annually, which is to be published.

CHAPTER III Federal Execution

A. Administration

1. The Federal President

Article 60

(1) The Federal President is elected by the people of the Federation (*Bundesvolk*) on the basis of equal, direct, secret and personal suffrage; if only one candidate runs in the election, the election must be carried out in the form of a referendum. Anyone entitled to vote for the National Council has the right to vote (*Stimmberechtigt*). Voting is compulsory in the *Länder* of the Federation where the law of the *Land* so provides. Detailed provisions concerning electoral procedure and possible compulsory voting shall be provided by Federal Law. In this Federal Law particular reasons shall be determined, on the basis of which non-participation may be deemed excused in spite of compulsory voting.

(2) Elected is one who has more than one-half of the valid votes. If no such majority results, a second ballot takes place. In this votes can be cast for only one of the two candidates, who received most votes in the first round.[\[44\]](#)

(3) To be elected Federal President one must have the right to vote for the National Council and must have passed the thirty-fifth year of age at the end of the election day at the latest. Excluded from eligibility are members of ruling houses, or of such families which formerly ruled.[\[45\]](#)

(4) The result of the election of the Federal President is to be officially publicized by the Federal Chancellor.

(5) The term of office of the Federal President lasts for six years. A re-election for an immediately following functional period is admissible only once.

(6) Before the expiration of the functional period the Federal President can be deposed by a people's referendum. The people's referendum is to be carried out if the Federal Assembly demands it. The Federal Assembly is to be convoked for this purpose by the Federal Chancellor, if the National Council has passed such a motion. For a decision by the National Council the presence of at least one-half of the members and a majority of two-thirds of the votes cast is required. By such a decision by the National Council the Federal President is

prevented from the further exercise of his office. The rejection of the deposition by a people's referendum is taken to be a new election and has the consequence of a dissolution of the National Council (Article 29, Paragraph 1). Also in this case the entire functional period of the Federal President may not last more than twelve years.

Article 61

(1) The Federal President, during his official activity, may not belong to any general representative body and may not exercise any other profession.

(2) The title "Federal President" may not—even with an addition or in connection with other designations—be used by anyone. It is legally protected.

Article 62

(1) The Federal President on the assumption of his office renders the [following] solemn promise before the Federal Assembly:

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

(2) The addition of a religious affirmation is admissible.

Article 63

(1) An official proceeding against the Federal President is admissible only if the Federal Assembly has consented to it.

(2) The motion to go forward with the prosecution of the Federal President is to be made by the competent authority at the National Council which decides whether the Federal Assembly shall deal with it. If the National Council pronounces itself in favor of it, the Federal Chancellor must immediately convoke the Federal Assembly.

Article 64

(1) If the President is impeded (*verhindert*), all his functions pass at first to the Federal Chancellor. If the impediment lasts longer than twenty days, or if, in accordance with Article 60, Paragraph 6, the Federal President is impeded from a further discharge of this office, the President, the second President and the third President of the National Council acting as a *collegium* shall exercise the functions of the Federal President.

(2) The *collegium*, [which] according to Paragraph 1 is entrusted with the exercise of the function of the Federal President, shall decide by majority vote. The chairmanship of the *collegium* is assigned to the President of the National Council, as is his representation before the public.

(3) If one or two Presidents of the National Council are impeded, or, if their position is continuously vacant, the *collegium* remains competent to make decisions even without their participation; if a tie (*Stimmengleichheit*) should result from this, the vote of the ranking President shall be decisive.

(4) In the event of a permanent vacancy of the position of Federal President, the Federal Government shall immediately order the election of a new Federal President; after the election the *collegium* shall without delay summon the Federal Assembly for the affirmation (*Angelobung*) of the Federal President.

Article 65

(1) The Federal President represents the Republic externally, receives and accredits the envoys, authorizes the appointment of foreign consuls, appoints the consular representatives of the Republic abroad and concludes the State treaties. He may order, at the time of the conclusion of a State treaty which does not fall under Article 50, or pursuant to Article 16(1) the State treaty is to be implemented by the enactment of ordinances which neither modify nor supplement existing law.

(2) Furthermore there belong to him—apart from the powers conferred upon him by other provisions of this Constitution—

(a) the appointment of Federal officials (*Bundesbeamte*), including the officers and the other Federal functionaries, the award to them of official titles;

(b) the creation and granting of professional titles;

(c) for individual cases: the pardoning of those lawfully sentenced by courts, the reduction and altering of sentences pronounced by the courts, the remission of legal consequences and the annulment of sentences as acts of mercy, furthermore the quashing of criminal proceedings in regard to punishable actions committed in official capacity;

(d) the declaration of illegitimate children as legitimate on the petition of parents;

(3) To what extent additional powers belong to the Federal President with respect to the granting of honorary rights, extraordinary grants, extra allowances and maintenance allowances, appointments or confirmation powers and other powers in personnel matters, shall be determined by special laws.

Article 66

(1) The Federal President can transfer his right of appointment of Federal employees of certain categories to the competent members of the Federal Government and empower them to delegate, on their part, for certain categories of Federal Civil Servants, this competence to subordinate organs.

(2) The Federal President can empower the Federal Government or the competent members of the Federal Government to conclude certain categories of the treaties which do not fall under Article 16 Paragraph 1 or Article 50; such an empowerment extends also to the authorization (*Befugnis*) to the implementation of these State treaties by the issuance of ordinances.

(3) The Federal President can, on the recommendation of a *Land* Government and with the countersignature of the *Land* Governor, empower the *Land* Government for the conclusion of State treaties, in accordance with Article 16 Paragraph 1, that are neither law-modifying nor

law-supplementing. Such an empowerment extends to the authority to establish (*Befugnis zur Anordnung*) that this State treaty shall be implemented by the issuance of ordinances.

Article 67

(1) All acts of the Federal President, save as constitutionally provided otherwise, shall be undertaken on the proposal of the Federal Government or the Federal Minister empowered by it. To what extent the Federal Government or the competent Federal Minister shall be bound by proposals from other authorities (*Vorschläge anderer Stellen*) is determined by the law.

(2) All acts of the Federal President, insofar as constitutionally not provided otherwise, require for their validity, the countersignature of the Federal Chancellor or the competent Federal Minister.

Article 68

(1) The Federal President is, for the discharge of his functions, responsible to the Federal Assembly according to Article 142.

(2) For the assertion of this responsibility the Federal Assembly shall be convoked by the Federal Chancellor on the resolution of the National Council or the Federal Council.

(3) A resolution, with which an indictment (*Anklage*) is presented, within the meaning of Article 142, requires the presence of the two representative bodies and a majority of two-thirds of the votes cast.

2. The Federal Government

Article 69

(1) The Federal Chancellor, the Vice Chancellor and the other Federal Ministers are entrusted with the highest administrative affairs of the Federation, insofar as these are not assigned to the Federal President. They constitute in their entirety the Federal Government under the chairmanship of the Federal Chancellor.

(2) The Vice Chancellor is designated to deputize for the Federal Chancellor in his entire area of operation. In case of the simultaneous impediment of the Federal Chancellor and the Vice Chancellor, the Federal President entrusts a member of the Federal Government with the deputization. In case that the Federal Chancellor and the Vice Chancellor are simultaneously impeded, without having designated a Deputy, the Federal Chancellor shall be represented by the oldest in service of an unimpeded member of the Federal Government [and] in case of the same service seniority, by the oldest in years.

(3) The Federal Government can make decisions, if more than one-half of its members are present.[\[46\]](#)

Article 70

(1) The Federal Chancellor and, on his proposal, the other members of the Federal Government are appointed by the Federal President. For the dismissal of the Federal

Chancellor or the entire Federal Government a proposal is not required; the dismissal of individual members of the Federal Government takes place on the proposal of the Federal Chancellor. The countersignature is provided if it concerns the appointment of the Federal Chancellor or the entire Federal Government, by the newly appointed Federal Chancellor; the dismissal does not require a countersignature.

(2) Only persons who are eligible for the National Council can be appointed Federal Chancellor, Vice Chancellor or Federal Minister; the members of the Federal Government need not belong to the National Council.

(3) If the Federal President appoints a new Federal Government at a time when the National Council is not in session, he must convoke the National Council within one week for an extraordinary session (Article 28, Paragraph 2) for the purpose of the presentation (*Vorstellung*) of the new Federal Government.

Article 71

If the Federal Government has left office, the Federal President shall entrust members of the outgoing government with the continuation of the administration and one of them with the chairmanship of the provisional Federal Government. The continuation of the administration can also be entrusted to a State Secretary assigned to the eliminated Federal Minister or to a senior official (*leitender Beamter*) of the concerned Federal Ministry. This provision applies correspondingly if individual ministers have left the Federal Government. The delegate (*Beauftragte*) who has been entrusted with the continuation of the administration bears the same responsibility as a Federal Minister (Article 76).

Article 72

(1) The members of the Federal Government, before the assumption of their office, shall be sworn in by the Federal President. The addition of a religious affirmation is admissible.

(2) The documents of appointment of the Federal Chancellor, the Vice Chancellor and other Federal Ministers, shall be executed by the Federal President on the day of their swearing in and countersigned by the newly appointed Federal Chancellor.

(3) These provisions are also to be applied correspondingly to the cases [referred to] in Article 71.

Article 73

(1) In case of a temporary impediment of a Federal Minister the Federal President entrusts on the proposal of the Federal Chancellor in agreement with the Federal Minister, who is to be represented or, if this is not possible, in agreement with the Vice Chancellor, a State Secretary attached to the Federal Ministry with the deputization. This deputy bears the same responsibility as a Federal Minister (Art. 76). A sojourn in another member state of the European Union is not considered as an impediment.[\[47\]](#)

(2) The competent Federal Minister can delegate to another Federal Minister or to a State Secretary, the authorization to participate in the sessions of the European Union and within this framework to conduct the negotiations and to vote on a particular project (*Vorhaben*).

(3) A member of the Federal Government, who sojourns in another member state of the European Union, can have his affairs in the National Council or the Federal Council taken care of by a State Secretary, who is attached to him or by another Federal Minister. A member of the Federal Government, who is not deputized, can transfer his vote in the Federal Government to another Federal Minister; his responsibility is not affected thereby. The right to vote can only be transferred to a member of the Federal Government, who is not already entrusted with the deputization of another member of the Federal Government and to whom the right to vote has already been transferred.[\[48\]](#)

Article 74

(1) If the National Council withdraws its confidence from the National Government or from individual members thereof, by express resolution, the Federal Government or the concerned Federal Minister, shall be removed from office.

(2) For the adoption of a resolution withdrawing confidence by the National Council, the presence of one-half of the members of the National Council is required. However, voting shall be adjourned until the next working day if the number of members specified in the Rules of Procedure of the National Council demand it. A further postponement can take place only by a decision of the National Council.

(3) Notwithstanding the authority otherwise vested in the Federal President according to Article 70, Paragraph 1, the Federal Government or its individual members shall be removed at their own request by the Federal President in the cases specified by law.

Article 75

The members of the Federal Government as well as the State Secretaries are entitled to participate in all the deliberations of the National Council, the Federal Council, as well as the Committees (Subcommittees) of these representative bodies, but in the deliberations of the Permanent Subcommittee of the Main Committee of the National Council, only upon special invitation. They have the right, according to more specific provisions of the Federal Law concerning the Procedure of the National Council, to be heard each time upon their request. The National Council, the Federal Council and the Federal Assembly, as well as their Committees (Subcommittees) can request the presence of the members of the Federal Government and ask them to initiate investigations (*Erhebungen*).

Article 76

(1) The members of the Federal Government (Articles 69 and 71) are responsible to the National Council according to Article 142.

(2) For the adoption of a resolution, with which an indictment (*Anklage*) is initiated in accordance with Article 142, the presence of more than one-half of the members is required.

Article 77

(1) The Federal Ministries and their subordinate departments are called upon to take care of the business of the Federal Administration.

(2) The number of the Federal Ministries, their scope of operation and their organization are determined by Federal Law.

(3) The Federal Chancellor is entrusted with the direction of the office of the Federal Chancellery, a Federal Minister is entrusted with the direction of each of the other Federal Ministries. The Federal President can entrust the technical direction (*sachliche Leitung*) of the particular matters which fall within the operational scope of the office of the Federal Chancellery, including the tasks personnel administration and organization to particular Federal Ministers, notwithstanding the continuation of the competence of the Federal Office of the Chancellery; such Federal Ministers have, with respect to these matters, the status of a competent Federal Minister.

(4) The Federal Chancellor and the other Federal Ministers may, with exception, also be entrusted with the direction of another Federal Ministry.

Article 78

(1) In special cases Federal Ministers may be appointed without being simultaneously entrusted with the direction of a Federal Ministry.

(2) To the Federal Ministers for the assistance in the conduct of business and for parliamentary representation, State Secretaries may be provided, who are appointed and leave office in the same manner as the Federal Ministers.

(3) The Federal Minister can entrust to the State Secretary with his consent, the conduct of other specified functions.

(4) In the fulfillment of these tasks, the State Secretary is also subordinated to the Federal Minister and bound by his instructions.

3. The Security Authorities of the Federation

Article 78a

(1) The Supreme Security authority is the Federal Minister of the Interior. Subordinate to him are the security directorates followed by the district administrative authorities and the Federal Police Directorates as security authorities.

(2) If the life, health, freedom or property of persons are presently in danger or such danger is directly impending, security officials are, irrespective of the competence of any other authority for repulse of the danger, competent to render primary assistance until the intervention of the respective competent authority.

(3) To what an extent the organs of the Municipalities must intervene is determined by Federal laws.

Article 78b

(1) Every *Land* has a security directorate. Its head is the Security Director. In Vienna, the Federal Police Directorate is at the same time the security directorate; the Police President is also the Security Director.

(2) The Federal Minister of the Interior appoints the Security Director in agreement with the *Land* Governor.

(3) The Federal Minister of the Interior must inform the *Land* Governor of every nationally important instruction or such as is essential to the maintenance of peace, order and security throughout the *Land* which he issues to a Security Director.

Article 78c

(1) At the top of a Federal Police Directorate stands the Police Director; at the top of the Federal Police Directorate [in] Vienna the Police President.

(2) The establishment of Federal Police Directorates and the definition of their local area of competence derive from ordinances of the Federal Government.

Article 78d

(1) Constabularies (*Wachkörper*) are armed or uniformed or otherwise militarily patterned formations invested with tasks of a police character. Not to be counted among the constabularies, in particular, 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 local competence of the Federal Police Directorate, to which a Federal Constabulary has been added, no Constabulary may be established or maintained by another territorial authority (*GebietsKörperschaft*).[\[49\]](#)

4. The Federal Army

Article 79

(1) The country's military defense is the duty of the Federal Army. It is conducted on the principles of a militia system.

(2) The Federal Army is, insofar as the lawful civil power claims its cooperation, has furthermore:

1. also beyond [and] above the scope of the country's military defense:

(a) to protect the constitutionally established institutions and their capacity to act as well as democratic freedoms of the inhabitants,

(b) to maintain order and security inside the country in general;

2. to provide help in natural catastrophes and disasters of exceptional magnitude.

(3) Additional tasks of the Federal Army are regulated by Federal Constitutional Law.

(4) The Defense Law regulates which officials and authorities can make direct claim to the cooperation of the Federal Army for the purposes mentioned in Paragraph 2.

(5) Independent military intervention for purposes named in Paragraph 2 is admissible only either if the competent authorities, by circumstances (*höhere Gewalt*) beyond their control have made it impossible for them to effect intervention by the military and irreparable damage to the community at large would arise from a further delay, or if it concerns the repulse of an attack, or the elimination of active resistance directed against a part of the Federal Army.

Article 80

(1) The supreme command over the Federal Army is exercised by the Federal President.

(2) Insofar as, according to the Defense Law, the disposition over the Federal Army is not vested in the Federal President, it lies with the competent Federal Minister within the authorization issued by the Federal Government.

(3) The command power over the Federal Army is exercised by the competent Federal Minister (Article 76, Paragraph 1).

Article 81

Federal Law regulates to what extent the *Länder* participate in the recruitment, provisioning, and quartering of the Army and the supply of other requirements.

5. The School Authorities of the Federation

Article 81a

(1) The administration of the Federation in the field of schooling and in the field of education in matters of pupils' hostels is to be taken care of by the competent Federal Minister and—insofar as neither matters of the university and fine arts academies nor the agricultural and forestry education in matters pertaining to pupils' hostels are concerned—by the school authorities of the Federation, which are subordinated to a competent Federal Minister. For the maintenance of registers of those who are of obligatory school age (*Schulpflichtige*), the Municipalities may be called upon as part of the delegated sphere of operation of the Federation.

(2) [In] the area of each *Land* a school authority to be called *Land* school board is to be established. In the *Land* Vienna, the *Land* school board has also to take care of the functions of the district school board and is to have the designation City School Board for Vienna. The functional area of operation of the *Land* school boards and the district school boards is to be regulated by Federal Law.

(3) For the establishment of the school authorities of the Federation which shall be regulated by law, the following guidelines shall apply:

(a) Within the framework of the school authorities of the Federation the committees (*Kollegien*) shall be established. *Land* school board committee members with voting rights shall be appointed in proportion to the strength of the parties in the *Land* legislature, the district school board committee members with voting rights, in proportion to the votes polled in the district by the parties represented in the *Land* legislature at the most recent election of the *Land* legislature. The appointment of all or of a part of the committee members by the *Land* legislature is admissible.

(b) The President of the *Land* school board is the *Land* Governor, Chairman of the district school board is the Director of district administrative authority. If the appointment of an acting (*amtsführend*) president of the *Land* school board is legally foreseen, then he shall take the place [of the president] in all matters which the president does not reserve for himself. If the appointment of a vice president is legally foreseen, then he has the right of inspecting documents and consultation, such a vice president shall, in any case, be appointed in those five *Länder*, which according to the last census before this Federal Constitutional Law went into effect, have the largest number of inhabitants.

(c) The scope of functions of the committees and the presidents (chairmen) of the *Land* and district school boards shall be regulated by law. For the issuance of dominances and general directives, for the appointment of officials and for the presentation of recommendations for appointments as well as for the presentation of drafts of laws and ordinances, the committees are to be called.

(d) In urgent cases which do not allow a postponement until the next session of the committee, the president (chairman) shall also take care of the matters which are assigned to the area of operation of the committee and inform the committee of this without delay.

(e) If the committee is unable to make decisions (*beschlussunfähig*) for more than two months the tasks of the committee devolve upon the President (Chairman) for the continued duration of the inability. In these cases the President (Chairman) takes the place of the committee.

(4) In matters, which fall into the scope of operation of the committees, directives (Article 20, Paragraph 1) may not be issued. This does not apply to directives which, because of illegality prohibit the implementation of a committee resolution or which order the repeal of an ordinance issued by the committee. Such directives have to be justified. The school authority against whom the directive is issued can, on the basis of a committee resolution in accordance with Articles 129 and 130, make an immediate complaint to the Administrative Court.[\[50\]](#)

(5) The competent Federal Minister can personally, or through officials (*Organe*) of the Federal Ministry directed by him, inform himself about the condition and the achievements also of those schools and pupils' hostels which are subordinated to the Federal Ministry by way of the *Land* school boards. Established deficiencies—insofar as they do not concern such in the sense of Article 14, Paragraph 8—are to be made known to the *Land* school board for the purpose of their redress.

Article 81b

(1) The *Land* school boards shall present three sets of proposals:

(a) for the following service positions of the Federation for school directives, other teachers and educators (*Erzieher*) at schools and pupils' hostels which are subordinated to the *Land* school boards;

(b) for the filling of service positions of the Federation for school supervisory officials who serve with the *Land* and district school boards as well as the assignment of school supervisory functions to teachers;

(c) for the appointment of chairmen and members of examination commissions for their teaching certification at upper primary schools and special schools.

(2) The proposals according to Paragraph 1 shall be rendered in accordance with Article 66, Paragraph 1, or Article 67, Paragraph 1, or on the basis of other provisions to the competent Federal Minister. The selection from the recommended persons is incumbent upon the Federal Minister.

(3) At every *Land* school board qualifications and disciplinary commissions of the first instance shall be established for school directors as well as educators, who have a public-legal service relationship with the Federation and are employed in a school or pupils' hostel, which is subordinated to the *Land* school board. Details shall be regulated by Federal Law.

B. Judicial Administration

Article 82

(1) All jurisdiction (*Gerichtsbareit*) emanates from the Federation.

(2) Judgments and decisions are pronounced and issued in the name of the Republic.

Article 83

(1) The organization (*Verfassung*) and competence of the courts is established by Federal Law.

(2) No one may be deprived of his lawful judge.

Article 84

Military jurisdiction is abolished except in times of war.

Article 85

The death penalty is abolished.

Article 86

(1) Save as provided otherwise by this law, judges are appointed on the proposal of the Federal Government by the Federal President or on the basis of his empowerment by the competent Federal Minister; the Federal Government or the Federal Minister shall obtain

proposals for appointment from the Senates which are established for this purpose by the Law on the Constitution of the Courts (*Gerichtsverfassung*).

(2) The proposal for appointment, which is to be presented to the competent Federal Minister and transmitted by him to the Federal Government must, if sufficient applications are available, include at least three persons, but, if more than one position is to be filled, at least twice as many persons as there are judges to be appointed.

Article 87

(1) Judges are independent in the exercise of their judicial office.

(2) In the exercise of his judicial office, a judge is in a position to take care of all judicial matters (*gerichtliche Geschäfte*), which are his according to the law and the distribution of judicial business with the exclusion of administrative judicial matters (*Justizverwaltungssachen*), which, in accordance with the provisions of the law, shall not be dealt with by Senates and Commissions.

(3) The cases (*Geschäfte*) are to be allocated in advance among the judges of a court for the period fixed by the Law on the Constitution of the Courts. A matter assigned to a judge in accordance with this distribution may be withdrawn from him by order (*Verfügung*) of the judicial administration only in the event of his disablement (*Behinderung*) or because of the scope of his duties he is impeded in their discharge within a reasonable time.

Article 87a

(1) By Federal Law, the care of the individual, precisely specified kinds of matters of civil court jurisdiction (*Geschäfte der Gerichtsbarkeit erster Instanz in Zivilrechtssachen*) can be assigned to specially trained Federal employees who are not judges.

(2) However, the judge competent in accordance with distribution of [judicial] business can at any time reserve or take upon himself the disposition of such matters.

(3) In the case of matters specified in Paragraph 1, Federal employees who are not judges, are bound only by the instructions of the judge who is competent in accordance with [the] distribution of business. Article 20, Paragraph 1, third sentence is to be applied.

Article 88

(1) In the Law on the Constitution of the Courts the age limit shall be fixed, upon the attainment of which, judges shall be placed in permanent retirement.

(2) Otherwise, judges may be removed from office or transferred against their will to another position or placed in retirement only in the cases and forms prescribed by law on the basis of formal judicial decision. However, these provisions do not apply to transfers and retirements which become necessary through changes in the constitution of the courts. In such cases the law shall determine within what period judges can be transferred or placed in retirement without the otherwise prescribed formalities.

(3) The temporary suspension of judges from office may take place only by order of the President of the Court or the higher judicial authority with simultaneous reference of the matter to the competent court.

Article 88a

The Law on the Constitution of the Courts can provide for positions of substitute judges (*Sprengelrichter*) at a higher court. The number of the positions of substitute judges may not exceed two percent of the number of the existing judicial positions. The use of substitute judges who are in charge of subordinate courts shall be determined, in accordance with the Law on the Constitution of the Courts by an authorized panel of the Superior Court. Substitute judges may only be entrusted with the substitution of judges of subordinate courts and only in case[s] of the impediment of these judges or if these judges, because of the scope (*Umfang*) of their tasks, are unable to dispose of them within a reasonable time.

Article 89

(1) The examination of the validity of duly promulgated ordinances, of notifications about the re-promulgation of a law (State treaty), of laws and State treaties and State treaties, insofar as it is not otherwise provided in this Article, is not a matter for the courts.[\[51\]](#)

(2) If a court has doubt about the application of an ordinance on the ground of being contrary to law, it shall file an application with the Constitutional Court for cancellation of this ordinance. If the Supreme Court or a court of second instance, which is competent to render a decision, has doubt about the application of a law on the ground of its being contrary to the Constitution, it must file an application with the Constitutional Court for cancellation of this law.

(3) If the legal regulation which is to be applied by the court has already ceased to be in force, then the application of the court to the Constitutional Court shall request a decision that the legal regulation was contrary to law or unconstitutional.

(4) Paragraph 2, first sentence and paragraph 3 apply accordingly to notifications about the re-promulgation of a law (State treaty), paragraphs 2 and 3 apply accordingly to State treaties in accordance with Article 140a.[\[52\]](#)

(5) A Federal Law shall determine what effects an application according to Paragraphs (2), (3), or (4) shall have on the proceeding which is pending before the court.

Article 90

(1) The proceedings before the deciding court in civil and criminal cases are oral and public. Exceptions are determined by law.

(2) In criminal proceedings the indictment procedure is appropriate.

Article 91

(1) The people shall participate in the judicial process.

(2) In cases of crimes punishable with heavy penalties, as specified by law, as well as in all political crimes and offenses, jurors decide the guilt of the accused. [\[53\]](#)

(3) In criminal proceedings on account of other punishable offenses, lay assessors (*Schöffen*) participate in the judicial process if the penalty to be imposed exceeds a limit to be determined by law.

Article 92

(1) The highest instance in civil and criminal cases is the Supreme Court.

(2) Members of the Federal Government, a *Land* Government or of a general representative body cannot be members of the Supreme Court; for members of general representative bodies who were elected for a fixed legislative or functional period, the incompatibility continues, even in the event of a premature renunciation of their mandate, until the expiration of the legislative or functional period. Anyone who during the last four years exercised one of the aforementioned functions cannot be appointed President or Vice President of the Supreme Court.

Article 93

Amnesties for actions punishable by the courts are granted by Federal Law.

Article 94

The judiciary is separated from the administration in all instances.

CHAPTER IV

Legislation and Execution by the *Länder*

A. General Provisions

Article 95

(1) The legislation of the *Länder* is exercised by the *Land* legislatures (*Landtage*). Their members are elected on the basis of equal, direct, secret and personal proportional representation suffrage of all male and female *Land* citizens in accordance with the *Land* electoral laws. By means of *Land* law more detailed provisions are made concerning obligatory voting. In this *Land* law the grounds are to be specified according to which non-participation in the election, notwithstanding obligatory voting, is deemed to be excused.

(2) The electoral regulations of the *Land* legislatures may not set narrower conditions for the active and passive voting law than the electoral regulations for the National Council.

(3) The voters exercise their voting right in electoral constituencies (*Wahlkreise*) each of which must constitute closed territory which can be divided into regional constituencies. The number of members shall be divided among the constituencies in proportion to the number of citizens. The *Land* electoral law can provide for a concluding distribution procedure (*abschliessendes Ermittlungsverfahren*) throughout the entire *Land* territory through which a settlement (*Ausgleich*) is achieved between the parties contesting in the election with respect

to the allocated seats to the parties as well as a distribution of not yet allocated seats, in accordance with proportional representation. A division of the electorate into other electoral bodies is not admissible.

(4) For public employees, who seek a mandate in the *Land* legislature, or who are elected representatives of a *Land* legislature, Article 59a applies, more stringent regulation is permissible. By means of *Land* Constitutional Law, an institution can be created with equal authority and equal obligation for the publication of a report as the Commission, according to Article 59b.[\[54\]](#)

Article 96

(1) The members of the *Land* legislature enjoy the same immunity as the members of the National Council; the provisions of Article 57 are to be applied accordingly.

(2) The provisions of Articles 32 and 33 apply also to the sessions of the *Land* legislatures and their committees.

(3) By *Land* law a regulation can be made, in accordance with Article 56 Paragraph 2, for members of the *Land* legislature who resign their seat because of their election to the Federal Council or [their appointment] to *Land* Government.

Article 97

(1) A *Land* law requires the adoption by the *Land* legislature, the authentication and countersignature in accordance with the provisions of the *Land* constitution and the promulgation by the *Land* Governor (*Landeshauptmann*) in the *Land* Law Gazette.[\[55\]](#)

(2) Insofar as a *Land* law foresees in its implementation the participation of Federal organs, the consent thereto of the Federal Government must be obtained. The consent is deemed to have been given if, within eight days from the day on which the legal enactment (*Gesetzesbeschluss*) arrived at the office of the Federal Chancellor, the Federal Government did not inform the *Land* Governor that the participation of the Federal organ is refused. Before the expiration of this deadline promulgation of the legal enactment may take place only if the Federal Government has expressly consented.

(3) If the immediate enactment of measures, which constitutionally require the passing of a resolution by the *Land* legislature, becomes necessary in order to avert obvious irreparable damage to the public (*Allgemeinheit*) at a time when the *Land* legislature cannot meet promptly, or if it is impeded by higher power (*höhere Gewalt*), the *Land* Government can, in agreement with a Committee of the *Land* legislature, [which is] constituted according to the principle of proportional representation, to take these measures by [means of] temporary law-amending ordinances. They must be communicated without delay to the *Land* Government. It shall be convened as soon as the impediment to its meeting has ceased. Article 18, Paragraph 4 applies correspondingly.

(4) The ordinances referred to in Paragraph 3 must not in any case signify a change of *Land* constitutional provisions and may neither impose a permanent financial burden on the *Land* or the municipalities, nor financial obligations on the State citizens nor dispose of State property, nor measures pertaining to matters, specified in Article 12 Paragraph 1 nor, finally, such

matters as [concern] the Chambers for workers and employees in the field of agriculture and forestry.[\[56\]](#)

Article 98

(1) All legal enactments of the *Land* legislatures shall immediately after the adoption by the *Land* legislature [and] before their promulgation by the *Land* Governor, be reported to the office of the Federal Chancellor.

(2) Because of the endangerment of Federal interests, the Federal Government can present a reasoned objection within eight days from the day on which the legal enactment arrived at the Office of the Federal Chancellor. If the Federation, prior to the introduction of the legislative procedure, was given an opportunity to state its position, the objection may be on an alleged encroachment on the competence of the Federation. In the case of an objection, the legal enactment may only be made public, if the *Landtag*, in the presence of at least one-half of its members, reaffirms (*wiederholt*) it.

(3) Publication before the expiration of the objection (*Einspruchsfrist*) is admissible only if the Federal Government expressly consents.

(4) For legal enactments of the *Land* legislatures, which deal with tax, the provisions of the Finance Constitutional Law shall apply.

Article 99

(1) The *Land* Constitution which is to be enacted by a *Land* Constitutional Law, can be amended by [a] *Land* Constitutional Law, insofar as the Federal Constitution is not affected (*berührt*) thereby.

(2) A *Land* Constitutional Law may be adopted only in the presence of one-half of the members of the *Land* legislature and with a majority of two-thirds of the votes cast.

Article 100

(1) Every *Land* legislature can be dissolved by the Federal President on the motion of the Federal Government [and] with the assent of the Federal Council. The assent of the Federal Council [is] decided in the presence of one-half of the members and with a majority of two-thirds of the votes cast. The representatives of the *Land*, whose *Land* legislature is to be dissolved, may not take part in the voting.

(2) In the case of dissolution, new elections must be scheduled within three weeks, in accordance with the provisions of the *Land* Constitution; the convocation of the newly elected *Land* legislature must ensue within four weeks after the election.

Article 101

(1) The executive power (*Vollziehung*) of every *Land* is exercised by a *Land* Government, which is to be elected by *Land* legislature.

(2) The members of the *Land* Government must not belong to the *Land* legislature. However, only persons eligible to the *Land* legislature may be elected to the *Land* Government.

(3) The *Land* Government consists of the *Land* Governor, the requisite number of alternates (*Stellvertreter*) and other members.

(4) Before the assumption of office the *Land* Governor is sworn in by the Federal President, the other members are sworn in by the *Land* Governor. The addition of a religious affirmation is admissible.

Article 102

(1) In the area of the *Länder*, insofar as no special (*eigene*) Federal authorities exist (direct Federal Administration), the *Land* Governor and the *Land* authorities subordinate to him, exercise the executive power of the Federation (Indirect Federal Administration). Insofar as Federal authorities, especially Federal police directorates, are entrusted with the execution of matters which are performed as indirect Federal administration, these Federal authorities are subordinated in these matters to the *Land* Governor and bound by his instructions (Article 20, Paragraph 1); whether and to what extent such Federal authorities are entrusted with acts of execution, is determined by Federal laws; they may be made public, insofar as they do not involve the entrusting of execution of matters mentioned in Paragraph 2, only with consent of the involved *Länder*.

(2) The following matters can, within the framework of the constitutionally determined area of operation, be directly performed by the Federal authorities:

demarcation of frontiers, foreign trade in goods and livestock, customs, regulation and supervision of entry into and exit from Federal territory, Federal finances, matters of monopolies, money, credit, stock exchange, banking and contractual insurance matters, weights, standards, trademarks, administration of justice, passports residence registration, weapons, munitions and explosives as well as matters pertaining to firearms, patents, trademarks and other designations of commodities, traffic, river and navigation police, mail and telecommunications, mining, regulation and control of the Danube, control of torrents, construction and maintenance of waterways, surveying, labor law, social insurance, the protection of monuments, the organization and direction of Federal police and Federal Gendarmerie, finally, under extraordinary conditions where on the day of effectiveness of this Federal Constitutional Law the local area of operation of a Federal police authority does not coincide with the territory of a Federal *Land*[:] the maintenance of public tranquility, order and security, including the general first aid, press matters, association and assembly matters, aliens police, commercial transactions in seed and plant commodities, fodder, fertilizer, as well as plant preservatives, military affairs, care of war participants and their dependents, population policy [if] it concerns the provision of aid to children and the creation of burden equalization in the interest of the family; schooling and education in matters relating to student hostels, with the exception of agricultural and forestry education in matters pertaining to youth hostels, matters of public contract awarding (*öffentliches Auftragswesen*).[\[57\]](#)

(3) It is reserved to the Federation to entrust to the *Land* Governor execution on behalf of the Federation also in matters enumerated in Paragraph 2.

(4) The establishment of special Federal authorities for matters other than those designated in Paragraph 2 can take place only with the consent of the concerned *Länder*.

(5) When in a *Land* the immediate enactment of measures pertaining to direct Federal legislation becomes necessary [in order] to avert an obvious and irreparable damage to the public, at a time when the highest organs of the Administration are not yet in a position [to act] because of higher power, the *Land* Governor must take measures on their behalf.[\[58\]](#)

Article 103

(1) In matters of indirect Federal administration the *Land* Governor is bound by the instructions of the Federal Government as well as the individual Federal Ministers (Article 20) and he is obligated, in order to effect the implementation, to employ also the means which are at his disposal in his capacity as an organ of the independent area of operation of the *Land*.

(2) A *Land* Government, in drawing up its Rules of Procedure, can decide that individual groups of matters pertaining to indirect Federal administration, because of their real relationship with matters pertaining to the independent area of operation of the *Land*, shall be conducted in the name of the *Land* Governor by the members of the *Land* Government. In these matters, the members of the *Land* Government are bound by the instructions of the *Land* Governor (Article 20) as he is bound 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 Paragraph 1, shall also in cases falling under Paragraph 2, be addressed to the *Land* Governor. He, if he does not himself conduct the relevant matter of indirect Federal administration, is obligated under his responsibility (Article 142(2)(e) to pass on the instruction without delay, unchanged and in writing to the concerned member of the *Land* Government and to supervise its implementation. If the instruction is not complied with, in spite of the required precautions taken by the *Land* Governor, the particular member of the *Land* Government is responsible, according to Article 142, to the Federal Government.[\[59\]](#)

(4) In matters of indirect Federal administration the administrative appellate procedure (*der administrative Instanzenzug*) ends with the *Land* Governor, if the *Land* Governor is to decide as legal remedial authority (*Rechtmittelbehörde*) and if Federal Law, exceptionally, on the basis of the importance of the matter, does not provide otherwise. If the decision in the first instance is up to the *Land* Governor, then the appellate procedure in matters of indirect Federal administration, if not otherwise stated by Federal Law, goes to the competent Federal Minister.

Article 104

(1) The provisions of Article 102 are not to be applied to institutions charged with the transaction of Federal matters specified in Article 17.

(2) However, the Federal Ministers, who are charged with the administration of Federal assets may assign the care of such business to the *Land* Governor [and] to the *Land* authorities who are subordinated to him. Such an assignment can at any time be totally or partially revoked. To what extent in special exceptional circumstances compensation shall be made by the

Federation for the costs incurred in the care of such business, shall be regulated by Federal Law. Article 103 Paragraphs 2 and 3 apply correspondingly.

Article 105

(1) The *Land* Governor represents the *Land*. In matters of indirect Federal administration he bears the responsibility to the Federal Government in accordance with Article 142. The *Land* Governor is represented by a certain member of the *Land* Government (Deputy *Land* Governor) who is selected by the *Land* Government. This appointment is to be communicated to the Federal Chancellor. If the case of substitution occurs, the member of the *Land* Government appointed as deputy is likewise responsible to the Federal Government in matters of indirect Federal administration according to Article 142. Immunity does not constitute a bar to the enforcement of such a responsibility on the part of the *Land* Governor or the member of the *Land* Government who deputizes for him. Likewise, immunity does not constitute a bar to the enforcement of the responsibility on the part of a member of the *Land* Government in the case of Article 103, Paragraph 3.

(2) The members of the *Land* Government are responsible to the *Land* legislature in accordance with Article 142.

(3) For the adoption of a resolution of indictment (*Anklage*), within the meaning of Article 142, the presence of one-half of the members is required.

Article 106

For the direction of the internal service of the Office of the *Land* Government an administrative official, who is versed in the law, shall be appointed as Director of the Office of the *Land* Government (*Landesamtsdirektor*). He is also the auxiliary organ of the governor in matters of indirect Federal Administration.

Article 107

Abrogated.

B. The Federal Capital City Vienna

Article 108

For the Federal Capital, Vienna, as a *Land*, the Communal Council has also the function of the *Land* legislature. The City Senate has also the function of *Land* Government. The Mayor (*Bürgermeister*) has also the function of the *Land* Governor, the Magistrate (*Magistrat*) [has] also the function of the Office of the *Land* Government and the Director of the Magistrate (*Magistratsdirektor*) [has] also the function of the Director of the Office of the *Land* Government.

Article 109

In matters of indirect Federal Administration the appellate process, insofar as it is not excluded by Federal Law, goes in the *Land* Vienna from the Magistrate as District administrative authority, or, to the extent that Federal authorities are entrusted with execution

(Article 102, Paragraph 1, second sentence), from these to the Mayor as *Land* Governor; otherwise Article 103, Paragraph 4, shall apply.

Article 110

Abrogated.

Article 111

In matters of building and taxation the decision in the highest instance rests with special collegial authorities. The composition and appointment of these collegial authorities is regulated by *Land* law.

Article 112

Taking into account Articles 108 to 111, the provisions of Section C of this chapter apply in other respects for the Federal Capital City, Vienna with the exception of Article 117, Paragraph 6 second sentence, Article 119, Paragraph 4, and Article 119a. Article 142, Paragraph 2, Subparagraph d, applies to the direction of the operational area assigned by the Federation to the Federal Capital City, Vienna.

Article 113

Abrogated.

Article 114

Abrogated.

C. Municipalities

Article 115

(1) Insofar as in following Article mention is made of Municipalities (*Gemeinden*) it is understood to mean local Municipalities (*Ortsgemeinden*).

(2) Insofar as a competence of the Federation is not expressly established, *Land* legislation shall regulate the communal law according to the principles of the following Articles of this section. The competence for the regulation of matters which, pursuant to Articles 118, 118a and 119, are to be taken care of by the Municipalities, is determined in accordance with the general provisions of this Federal Constitutional Law.[\[60\]](#)

(3) The Austrian Federation of Municipalities and the Austrian Federation of Cities are competent to represent the interests of the Municipalities.

Article 116

(1) Every *Land* is divided into Municipalities. The Municipality is a territorial corporation (*Gebietskörperschaft*) with the right to self-administration and at the same time an

administrative local unit (*Verwaltungssprengel*). Every parcel of land must be part of a Municipality.

(2) The Municipality is an independent economic body (*Wirtschaftskörper*). It has the right, within the limits of the general laws of the Federation and the *Länder*, to possess, acquire and dispose of all assets of all kinds; to operate economic enterprises as well as manage its housekeeping (*Haushalt*) independently within the framework of the Financial Constitution (*Finanzverfassung*) and to levy taxes.

(3) To a Municipality of at least 20,000 inhabitants, if the interests of the *Land* are thereby not placed in danger, at its request, its own Statute (City Law) is to be awarded by the *Land* legislation. Such a legislative enactment may be published only with the consent of the Federal Government. Consent shall be deemed to have been given, if within eight weeks from the day of the arrival of the legislative enactment at the competent Federal Ministry, the Federal Government did not inform the *Land* Governor that [consent] is refused. A City with its own statute, besides the tasks of its communal administration, has also to take care of those of the District administration (*Bezirksverwaltung*).

(4) Abrogated.

Article 116a

(1) For the performance of specific tasks within their own area of competence, Municipalities can, by agreement, combine into associations of Municipalities. Such an agreement requires the approval of the supervisory authority. The approval shall be given by ordinance if an agreement between the participating Municipalities, which is in accord with the law, is on hand and if the formation of the association of Municipalities,

1. In the case of the performance of tasks of sovereign administration (*Hoheitsverwaltung*) the function of the Municipality as a body of self-administration is not threatened.

2. In the cases of performance of tasks belonging to the Municipalities as holders of private rights it lies, for reasons of expediency, economic efficiency and thrift, in the interest of the participating Municipalities.

(2) In the interest of expediency, the competent legislation (Articles 10 to 15) may provide for the formation of the Municipalities as self-administrative corporate bodies and local administrative bodies may not be jeopardized by this. In the process of the formation of associations of Municipalities by way of execution, the participating Municipalities shall be heard in advance.

(3) Insofar as the associations of Municipalities are to take care in their own area of competence, the Municipalities belonging to the association of Municipalities shall be given a decisive influence to the performance of the tasks of the association of Municipalities.

(4) The *Land* legislature shall regulate the organization of the association of the Municipalities, whereby, in any case, their organs shall consist of an association assembly (*Verbandsversammlung*) which shall consist of elected representatives of all member Municipalities and make provision for an association chairman (*Verbandsobmann*). Moreover, for associations of Municipalities that are formed by agreement, rules are to be

established concerning the joining and withdrawal of Municipalities as well as the dissolution of associations of Municipalities.

(5) The competence for the regulation of the matters to be entrusted (*besorgenden*) is determined by the general provisions of this Federal Constitutional Law.

Article 117

(1) As organs of the Municipalities provision is to be made for:

(a) The Communal Council (*Gemeinderat*) that is a general representative body to be elected by those entitled to vote in the Municipality;

(b) The Communal Directorate (*Gemeindevorstand*) also known as the City Council (*Stadtrat*), in cities with their own statute the City Senate (*Stadtsenat*);

(c) the Mayor (*Bürgermeister*);

(2) The elections to the Communal Council take place on the basis of equal, direct, secret and personal proportional representation electoral law of all State citizens who have their ordinary domicile (*Wohnsitz*) in the Municipality. In the Electoral regulations the conditions for the active and passive electoral right may not be drawn more narrowly in the Electoral regulations (*Wahlordnung*) for the *Land* legislature. However, it can be stipulated that the active and passive right to vote in Communal Council elections, is not accorded to persons who have resided in the Municipality for one year, if their stay in the Municipality is manifestly only temporary. Under conditions to be established by the *Länder* are the active and passive right to vote of citizens of other member states of the European Union. The provisions concerning compulsory voting in the elections to the *Land* legislature (Article 95, Paragraph 1, last sentence) apply correspondingly to the elections to the Communal Council. The Electoral regulations may provide that the voters exercise their suffrage in constituencies (*Wahlkreise*), each of which must comprise a territorial unit. A division of the electorate into other electoral bodies is not admissible. In case that no election proposals are brought forward, provision made in the electoral regulations can determine that persons whose names are listed most frequently on the ballot papers, shall be deemed elected.

(3) For a vote of the Communal Council the simple majority is required of the members present, who constitute a quorum; however, for certain matters, other requirements for the making of a decision may be provided.

(4) The sessions of the Communal Council are public, but provision can be made for exceptions. When the communal budget or communal final accounts are acted on, the public may not be excluded.

(5) The electoral parties which are represented in the Communal Council have a claim to representation on the Communal Council Directorate in proportion to their strength.

(6) The Mayor is elected by the Communal Council. In the *Land* Constitution it can be provided, that those who are entitled to elect the Communal Council, are entitled to elect the Mayor.[\[61\]](#)

(7) The affairs of the Municipalities are looked after by the Office of the Municipality (*Gemeindeamt*), ([or the] City Office (*Stadtamt*)); those of the cities with their own statute by the Magistrate (*Magistrat*). As Director of the internal service of the Magistrate an administrative official, who is versed in the law, is to be appointed as Director of the Magistrate (*Magistratsdirektor*).

(8) In matters pertaining to the area of competence of the Municipalities, the *Land* legislator may provide for the direct participation and assistance of those who are entitled to vote in the elections for the Communal Council.

Article 118

(1) The operational area of the Municipality is its own and the one transferred by the Federation or the *Land*.

(2) Its own operational area comprises, aside from the matters mentioned in Article 116, Paragraph 2, all matters which are exclusively or preponderantly in the interest of the local community, as embodied in the Municipality, and [which] are suitable to be taken care of by the community within its local boundaries. The laws must expressly designate such matters as fall within the municipality's own operational area.

(3) The following official tasks are particularly entrusted to the care of the Municipality in its own operational area:

1. The appointment (*Bestellung*) of the communal organs, notwithstanding the competence of supralocal (*überörtlich*) election authorities; the regulation of the arrangements for the care of communal tasks;

2. The appointment of communal employees (*Gemeindebedienstete*) and the exercise of official authority, notwithstanding the competence of supralocal disciplinary, qualifications and examination commissions;

3. Local security police (Article 15, Paragraph 2), local events police (*Veranstaltungspolizei*);

4. Administration of the traffic areas (*Verkehrsflächen*) of the Municipality, local street police;

5. Soil protection police (*Flurschutzpolizei*);

6. Local market police;

7. Local sanitary police, particularly in the field of aid and rescue service as well as matters pertaining to corpses and burials;

8. Morals police (*Sittlichkeitspolizei*);

9. Local building police, insofar as they do not involve federally owned buildings, which serve public purposes (Article 15, Paragraph 5), local fire police; local spatial planning;

10. Public institutions for the out-of-court settlement of disputes;

11. Voluntary sales of movable things.

(4) The Municipality shall take care of the matters falling within its own operational area within the framework of the laws and ordinances of the Federation and the *Land* on its own responsibility free from instructions and subject to the provisions of Article 119a, Paragraph 5, to the exclusion of a legal remedy to administrative organs outside the Municipality. To the Federation and to the *Land* belongs a right of supervision (Article 119a) over the Municipality with regard to its performance in its own operational area. The provisions of Article 12, Paragraph 2, remain unaffected.

(5) The Mayor, the members of the communal board (City Council, City Senate) and possibly other appointed organs of the Municipality are responsible to the Communal Council for the fulfillment of their tasks in the Municipality's own operational area.

(6) In matters pertaining to its own operational area the Municipality has the right to enact local police ordinances, on the basis of free self-determination, for the prevention or elimination of nuisances, which disturb the local communal life, as well as to declare their nonobservance as administrative transgression (*Verwaltungsübertretung*). Such ordinances must not violate existing laws and ordinances of the Federation and the *Land*.

(7) On application by a Municipality the care of certain matters (falling) within the Municipality's own operational area can, in accordance with Article 119a, Paragraph 3, be transferred by ordinance of the *Land* Government or by the ordinance of the *Land* Governor to a State authority. Insofar as by an ordinance a competence is to be transferred to a Federal authority, it requires the consent of the Federal Government. Insofar as by such an ordinance of the *Land* Governor a competence is to be transferred to a *Land* authority, it requires the consent of the *Land* Government. Such an ordinance is to be rescinded as soon as the reason for its enactment has ceased to exist. This transfer does not extend to the right to issue ordinances (*Verordnungsrecht*) pursuant to Paragraph 6.

(8) The establishment of a communal constabulary or a change of its organization is to be reported to the Federal Government. [\[62\]](#)

Article 118a [\[63\]](#)

(1) By Federal or *Land* law it can be determined that the members of a communal constabulary may, with the consent of the Municipality, be empowered to take care of the executive service for the competent authority.

(2) With the consent of the Municipality, the District Administrative Authority can empower members of a communal constabulary to participate in the management of the Administrative Penal Law in the same extent as the other Organs of the public Security Service. This empowerment may be made only, insofar as the Organs of the public Security Service can supervise the maintenance of the administrative regulations in the concerned matter or if this matter is to be taken care of within the area of competence.

Article 119

(1) The transferred operational area comprises the matters which the Municipality is to take care of in accordance with Federal Laws on the order and in compliance with the instructions

of the Federation or in accordance with the *Land* laws on the order and in compliance with the instructions of the *Land*.

(2) The matters of transferred competence are administered by the Mayor. In matters pertaining to Federal execution he is bound by the instructions of the competent Federal authorities; in matters pertaining to *Land* execution [he is bound] by the instructions of the competent organs of the *Land* and responsible in accordance with Paragraph 4.

(3) The Mayor can transfer single categories of matters of the transferred operational area—without effect on his responsibility—because of their real connections with matters pertaining to the [Municipality's] operational area, to members of the communal board (City Council, City Senate) to other organs created in accordance with Article 117, Paragraph 1; or, in the case of collegial organs, to their members, to take care of them, in his own name. In these matters, the concerned organs or their members are bound by the instructions of the Mayor and responsible according to Paragraph 4.

(4) Because of violation of the law as well as noncompliance with an ordinance or an instruction, the organs named in Paragraphs 2 and 3, insofar as they are guilty of malice or gross negligence, can be declared to have forfeited their office by the *Land* Governor, if they were acting in the area of Federal execution, by the *Land* Government if they were acting in the field of *Land* execution. In the event that such a person should belong to a Communal Council, the membership will thereby not be affected.

Article 119a

(1) The Federation and the *Land* exercise the right of supervision over a Municipality so that, in the exercise of its own operational area, it does not violate the laws and ordinances, and especially that it does not transgress its operational area and that it fulfills its legally assigned duties.

(2) The *Land*, furthermore, has the right to examine the financial management of the Municipality as to its thrift, economy and efficiency. The result of the examination is to be transmitted to the Mayor for presentation to the Communal Council. The Mayor shall inform the supervisory authority within three months, of the measures taken on the basis of the result of the examination.

(3) The right of supervision and its legal regulation belong to the Federation insofar as the Municipality's own operational area comprises matters from the area of Federal execution, otherwise [it belongs] to the *Länder*; the right of supervision is to be exercised by authorities of the general State administration.

(4) The supervisory authority is entitled to inform itself about every kind of matter of the Municipality. The Municipality is obligated to provide information demanded by the supervisory authority in an individual case and to permit on-the-spot examinations.

(5) Whoever claims that his rights have been violated by the ruling (*Bescheid*) of a communal organ in matters of its own operational area, may, after the exhaustion of the appellate procedure (Article 118, Paragraph 4), within two weeks after the issuance of the ruling, make representations against it to the supervisory authority. The latter shall annul the ruling, if the rights of the intervener have been violated by it and to refer the matter back to the

Municipality for a new decision. For cities with their own statute, the competent legislature (Paragraph 3) may provide that the representation to the supervisory authority does not take place.

(6) The Municipality shall inform the supervisory authority, without delay, of ordinances enacted in its own operational area. The supervisory authority, after a hearing of the Municipality, shall annul illegal ordinances by means of an ordinance and simultaneously advise the Municipality of the reasons.

(7) Insofar as the competent legislation (Paragraph 3) provides as a means of supervision for the dissolution of the Communal Council, this measure rests with the *Land* Government in the exercise of the supervisory right of the Federation. The admissibility of the substitution measure (*Ersatzvornahme*) as a means of supervision (*Aufsichtsmittel*) is to be limited to cases of absolute necessity. The means of supervision shall be used with the greatest possible consideration for the acquired rights of third parties.

(8) Individual measures, which are to be taken by the Municipality in its own operational area, through which supralocal interests are also affected to a special extent, especially such with special financial significance, can be tried by the competent legislation (Paragraph 3) to an approval by the supervisory authority. As ground for the refusal of the approval, only a state of facts may be envisioned, which unequivocally justifies the preference of supralocal interests.

(9) The Municipality has the status of a party in the proceeding before a supervisory authority; it is entitled to bring a complaint against the supervisory authority before the Administrative Court (Article 131 and 132) and the Constitutional Council (Article 144).

(10) The provisions of this Article shall be applied correspondingly to the supervision of associations of Municipalities, insofar as these matters concern the Municipality's own operational area.

Article 120

The consolidation (*Zusammenfassung*) of local Municipalities into area Municipalities (*Gebietsgemeinden*), their establishment in accordance with the model of self-administration as well as the determination of other principles for the organization of the general State administration in the *Länder* is the business of the Federal Constitutional legislation; the implementation is the concern of the *Land* legislation. The regulation of the competence in matters of civil service law and the personnel representation law of the employees of the area Municipalities is the business of the Federal Constitutional legislation.

CHAPTER V

Control of Accounts and Financial Management

Article 121

(1) For the audit of the financial management of the Federation, the *Länder*, associations of Municipalities, Municipalities and other legal entities (*Rechtsträger*) designated by law, the Court of Accounts is competent.

(2) The Court of Accounts (*Rechnungshof*) prepares the Federal budget (*Rechnungsschluss*) and submits this to the National Council.

(3) All documents regarding financial debts of the Federation insofar as they result in a liability of the Federation, are to be countersigned by the President of the Court of Accounts, in case of his impediment by his alternate. The countersignature certifies merely the legality of the acceptance of the indebtedness and the lawful entry into the general ledger of the State indebtedness.

(4) Every second year the Court of Accounts shall ascertain, with respect to enterprises and agencies, which are subject to its control and for which a duty exists to report to the National Council, the average incomes inclusive of all social service payments, contributions in kind, and additional retirement benefits, of members of the management board and the supervisory board as well as all employees. The average of the specified categories of persons (*Personenkreise*) shall be shown separately for each enterprise and each agency.

Article 122

(1) The Court of Accounts is directly subordinate to the National Council. It is acting in matters of the Federal financial management as the organ of the National Council, in matters of the *Länder*, associations of Municipalities, and the financial administration as the organ of the pertinent *Land* legislature.

(2) The Court of Accounts is independent of the Federal Government and the *Länder* governments and is subject only to the provisions of the law.

(3) The Court of Accounts consists of a President, a Vice President and the required officials and auxiliary personnel (*Hilfskräfte*).

(4) The President and the Vice President of the Court of Accounts are elected on recommendation of the Main Committee by the National Council for a period of twelve years; a re-election is not admissible. Before his assumption of office he renders an affirmation to the Federal President.

(5) The President of the Court of Accounts may not belong to a general representative body nor may he have been a member of the Federal Government or the *Land* Government during the last four years.

Article 123

(1) The President of the Court of Accounts is put on the same level regarding responsibility as the members of the Federal Government or the members of the pertinent *Land* Government, depending on whether the Court of Accounts is acting as an Organ of the National Council or of the *Land* legislature.

(2) He [the President of the Court of Accounts] can be recalled by a resolution of the National Council.

Article 123a

(1) The President of the Court of Accounts is entitled to participate in the negotiations in the National Council, as well as its committees (subcommittees), concerning the reports of the Court of Accounts, the Federal Final Accounts and the chapters of the Draft Federal Financial Law which concern the Court of Accounts.

(2) The President of the Court of Accounts, according to specific provisions of the Federal Law concerning the Procedure of the National Council, has the right to be heard every time upon his request in the negotiations concerning the matters listed in Paragraph 1.

Article 124

(1) The President of the Court of Accounts, in case of his impediment, is deputized for by the ranking senior official of the Court of Accounts. This applies also if the Office of the President is vacant. The deputization of the President of the Court of Accounts in the National Council is determined by the Federal Law concerning the Procedure of the National Council.

(2) In the case of the deputization for the President the provisions of Article 123, Paragraph 1 apply to the deputy.

Article 125

(1) The officials of the Court of Accounts are appointed by the Federal President upon recommendation and under the countersignature of the President of the Court of Accounts; the same applies also for the granting of the official titles. However, the Federal President may empower the President of the Court of Accounts to appoint officials of certain categories.

(2) The auxiliary persons are appointed by the President of the Court of Accounts.

(3) The service prerogative of the Federation toward the employees of the Court of Accounts is exercised by the President of the Court of Accounts.[\[64\]](#)

Article 126

No member of the Court of Accounts may take part in the management and administration of enterprises which are subject to the control of the Court of Accounts. Neither may a member of the Court of Accounts participate in the management and administration of other profit oriented enterprises.

Article 126a

If differences of opinion arise between the Court of Accounts and a legal entity (*Rechtsträger*) (Article 121, Paragraph 1), regarding the interpretation of the legal provisions which regulate the competence of the Court of Accounts, then, on petition of the Federal (*Land*) Government or of the Court of Accounts the Constitutional Court decides. All legal entities are obliged to allow an examination by the Court of Accounts in accordance with the legal view of the Constitutional Court.

Article 126b

(1) The Court of Accounts shall examine the entire State economy (*Staatwirtschaft*) of the Federation; further the financial management of endowments and foundations which are administered by organs of the Federation or by persons (association of persons) that are appointed for this purpose by organs of the Federation.

(2) The Court of Accounts examines also the financial management of enterprises in which the Federation either participates alone or jointly with other legal entities (*Rechtsträger*) which fall under the competency of the Court of Accounts with at least 50 percent of the common, basic or own capital (*Stamm-Grund-oder-EigenKapital*) operating alone or with other such legal entities. Such a financial participation is deemed to be equivalent to the control of enterprises through other financial or other economic or organizational measures. The competence of the Court of Accounts extends also to enterprises of each further category in which the conditions specified in this paragraph exist.

(3) The Court of Accounts is competent to audit the conduct of public law corporations [operating] with funds of the Federation.

(4) The Court of Accounts must, upon the decision of the National Council or upon the request of members of the National Council, carry out special acts of examination of the financial management which fall into its area of operation. More specific regulation is enacted through the Federal Law concerning the Procedure of the National Council. In the same manner the Court of Accounts must, on a substantial request by the Federal Government or a Federal Minister, carry out special acts of examination and communicate the result to the requesting authority.

(5) The audit of the Court of Accounts must extend to the correctness of figures, compliance with the existing regulations; furthermore thrift, efficiency and practicality.

Article 126c

The Court of Accounts is competent to examine the financial management of the institution responsible for Social Security.

Article 126d

(1) The Court of Accounts reports each year to the National Council concerning its activity in the previous year at the latest on December 31. Furthermore, the Court of Accounts may report to the National Council regarding single observations, with possible proposals, at any time. The Court of Accounts must inform the Federal Chancellor simultaneously with every submission to the Federal Council. The annual report of the Court of Accounts shall be published; however, publication of its contents may not take place before the presentation to the National Council.

(2) For the consideration of the reports of the Court of Accounts a Standing Committee is constituted in the National Council. In [its] formation, the principle of proportional election is to be adhered to.

Article 127

(1) The Court of Accounts must examine the financial management falling within the independent operational area of action of the *Länder* as well as the management of endowments, funds and institutions which are administered by organs of the *Land* or by persons (associations of persons) appointed by organs of the *Land*. The audit must extend to correctness of figures, compliance with the existing regulations, further the thrift, efficiency and practicality of the management; it does not include, however, the decisions necessary for the financial management of the constitutionally competent representative bodies.

(2) The *Land* Governments must annually submit estimates [of] final audit accounts to the Court of Accounts.

(3) The Court of Accounts examines also the management of enterprises in which the *Land* participates alone or jointly with other legal entities which fall under the competence of the Court of Accounts with at least 50 percent of the common, basic or own capital or which the *Land* operates alone or jointly with other such legal entities. With respect to the concept of financial participation, Article 126b(2) applies correspondingly. The competence of the Court of Accounts extends also to enterprises of each further category in which the conditions specified in this paragraph exist.

(4) The Court of Accounts is authorized to examine the financial management of public corporations with the use of the means of the *Land*.

(5) The Court of Accounts must communicate the results of its examination to the *Land* Government. The *Land* Government must inform the Court of Accounts within three months of the measures taken on the basis of the examination.

(6) Annually the Court of Accounts renders its report on the activities during the past year to the *Land* legislature, at the latest on December 31. Moreover, the Court of Accounts reports specific observations to the *Land* legislature. However, the Court of Accounts must simultaneously send each report to the *Land* Government as well as the Federal Government. After submission to the *Land* legislature, the reports by the Court of Accounts shall be published.

(7) The Court of Accounts must, on the resolution of the *Land* legislature, or on the basis of a certain number of members of a *Land* legislature, which may not exceed one-third, undertake special measures of investigation on matters which fall into its scope of competence. As long as the Court of Accounts has not yet provided a report to the *Land* legislature on the basis of such a request, no further request may be made. In the same manner, on the reasoned request by a *Land* Government, the Court of Accounts shall execute such Acts and communicate the result to the requesting instance.

(8) The provisions of this Article apply also for the examination of the financial administration of the City of Vienna, by substituting the Communal Council for the *Land* legislature and the City Senate for the *Land* Government.

Article 127a

(1) The financial management of the Municipalities of at least 20,000 inhabitants is subject to examination by the Court of Accounts as well as the financial management of endowments, funds and institutions, which are administered by organs of a Municipality or by persons

(associations of persons), which have been instituted therefor by organs of a Municipality. The examination shall extend to the correctness of the numbers, the congruence with the existing regulations, furthermore, the thriftiness, economy and suitability to the financial administration.

(2) The Mayors must annually transmit the estimates and the final budget accounts to the Court of Accounts and simultaneously to the *Land*.

(3) The Court of Accounts examines also the management of enterprises in which a Municipality with at least 20,000 inhabitants participates alone or jointly with other legal entities, which fall under the competence of the Court of Accounts with at least 50 percent of the common, basic or own capital or which the Municipality operates alone or jointly with other such legal entities. With respect to [the] concept of financial participation, Article 126b(2) applies correspondingly. The competence of the Court of Accounts extends also to enterprises of each further category, in which the conditions specified in this paragraph exist.

(4) The Court of Accounts is authorized to examine the financial management of public corporations using funds of a Municipality of at least 20,000 inhabitants.

(5) The Court of Accounts transmits the results of its examination to the Mayor. The Mayor shall take a position and within three months inform the Court of Accounts of the measures taken on the basis of the results of the examination. The Court of Accounts shall communicate the result of its financial communication and a possible opinion by the Mayor to the *Land* Government and to the Federal Government.

(6) The Court of Accounts renders a report concerning its activity to the Communal Council at the latest on December 31. Simultaneously with the transmission of the report to the Communal Council the *Land* Government and the Federal Government shall also be informed. The reports shall be published after presentation to the Communal Council.

(7) The Court of Accounts shall, upon the explicit request of a pertinent *Land* Government, also examine the financial management of Municipalities of less than 20,000 inhabitants, and shall inform the *Land* Government of the results of this examination. Paragraphs 1 and 3 of this Article are applied.

(8) The provisions which apply for the examination of the financial management of the Municipalities with at least 20,000 inhabitants apply correspondingly to the financial management of communal associations.

Article 127b

(1) The Court of Accounts is authorized to examine the financial administration of the professional corporations.

(2) The legal professional organizations must transmit annually the budget estimates and the final budget accounts.

(3) The examination by the Court of Accounts shall extend to the correctness of numbers, the congruence with the existing regulations, furthermore the thriftiness and the economy of the financial administration; however, this examination does not include the decisive resolutions

by the competent organs of the professional organizations which govern the financial administration on behalf of the legally designated professional representatives.

(4) The Court of Accounts shall notify the Chairman of the constituent organ (representative body) of the legal professional organization of the results of the examination. The latter shall transmit the result, with any possible opinion to the constituent organ (representative body) of the legal professional corporation. The Court of Accounts shall simultaneously inform the highest competent supervisory authority about the result of the examination. The reports of the Court of Accounts shall be published after presentation to the constituent organ (the representative body).

Article 127c

If the *Länder* create for their jurisdiction institutions similar to the Court of Accounts, a regulation can be made, by means of a *Land* Constitutional Law which correspond to the first sentence of Article 126a. The second sentence also applies in this case.[\[65\]](#)

Article 128

More detailed regulations regarding the organization and the activity of the Court of Accounts are made by Federal law.

CHAPTER VI

Constitutional and Administrative Guarantees

Article 129

Competent for the securing of the legality of the entire public administration are the independent administrative tribunals and the Administrative Court in Vienna.[\[66\]](#)

A. Independent Administrative Tribunals in the *Länder*

Article 129a

(1) The independent administrative tribunals decide after the exhaustion of administrative appeals procedure, insofar as [the following] come into consideration:

1. in proceedings on account administrative transgressions, with the exception of financial penal matters of the Federation;
2. on complaints by persons who allege infringement on their rights, through the exercise of direct administrative command and coercive power, with the exception of financial penal matters of the Federation;
3. in other matters which are assigned to them by the Federal or *Land* Laws which regulate particular areas;
4. on complaints on account of violation of the obligation to decide on matters specified in Subparagraph 1, insofar as it concerns private law actions or *Land* penal tax law, and Subparagraph 3.

(2) It can be legally provided that decisions of first instance can be directly appealed at an independent administrative tribunal. In matters of the indirect Federal Administration as well as [in matters referred to] in Articles 11 and 12 may only be published with the consent of the participating *Länder*.

(3) Article 89 applies correspondingly to the independent administrative tribunals.

Article 129b

(1) The independent administrative tribunals consist of a Chairman, a Deputy Chairman, and the required number of other members. Their members are appointed by the *Land* Government for at least six years. No fewer than a quarter of the members must be drawn from professional posts in the Federation.

(2) The members of the independent administrative tribunals are not bound by any instructions in the execution of their tasks in Articles 129a and 129b. The defined business (*Geschäfte*) is to be assigned in advance to the members of the independent administrative tribunals for a time specified in *Land* legislation; a matter assigned to a member of an independent administrative tribunal can only be taken from him in case of incapacitation by the directive of the Chairman.

(3) The members of the independent administrative tribunals cannot be removed before the expiration of their terms of appointment and then only in the legally specified cases and only upon a resolution of the independent administrative tribunal.

(4) The members of the independent administrative tribunal must be jurists (*rechstkundig*). They may not be engaged in any activity which might raise doubt about the independent exercise of their office.

(5) According to the Procedure of the independent administrative tribunals, these authorities decide collectively or by single members.

(6) The organization of the independent administrative tribunal as well as the Service Code (*Dienstrecht*) is regulated by the Procedure by Federal Law.[\[67\]](#)

B. Independent Federal Asylum Senate

Article 129c[\[68\]](#)

(1) By Federal law an independent Administrative Senate can be established as the highest administrative authority in matters of asylum (Independent Federal Asylum Senate).

(2) The Independent Federal Asylum Senate consists of a Chairman, a Deputy Chairman and the required number of other members. The members are appointed by the Federal President on the proposal of the Federal Government. The appointment is one of indefinite duration.

(3) The members of the Senate, in the exercise of their assigned tasks are not bound by any instructions. The business of the Independent Federal Asylum Senate as a Collegium is to be distributed annually; a matter which has been assigned in this distribution to a member can only be taken away in case of an impediment by disposition of the Chairman.

(4) By [a] law an age limit is set, after whose attainment the members of the Independent Federal Asylum Senate enter into retirement. Otherwise they may only be removed from office in the legally determined cases and only on the basis of a decision of the Independent Federal Asylum Senate.[\[69\]](#)

(5) The members of the Senate must be knowledgeable in law. They may not, during the exercise of their office, engage in any activity that might give rise to the independent exercise of their office.

(6) Article 89 applies correspondingly to the Independent Federal Asylum Senate.

(7) the more detailed provisions are made by a Federal Law. In this it is especially regulated in which matters the Senate decides by several and in which matters it decides by single members.

C. Administrative Court

Article 130

(1) The Administrative Court rules on complaints concerning

a) illegality of rulings by administrative authorities including independent administrative tribunals or

b) alleged violations of the duty to decide (*Entscheidungspflicht*) by administrative authorities including the independent administrative tribunals. The Administrative Court rules, furthermore, on complaints against instructions, pursuant to Article 81a, Paragraph 4.

(2) Illegality does not exist insofar as the legislation refrains from establishing a binding behavior for the administrative authority and leaves the determination of the authority itself and [after] the authority has made use of this free discretion in the sense of the law.

Article 131

(1) A complaint against the ruling of an administrative authority on the ground of illegality can be brought

1. by one who alleges that his rights were violated, after the exhaustion of the appellate process (*Instanzenzug*);

2. in matters pertaining to Articles 11, 12, 14, Paragraphs 2 and 3, and 14a, Paragraphs 3 and 4, as well as in those matters in which the ruling of a *Land* or District School Board is based on a collegial decision, [and] the competent Federal Minister, insofar as the parties can no longer contest the ruling by way of appeal;

3. in matters pertaining to Article 15, Paragraph 5, first sentence, the competent *Land* Government against the rulings of the competent Federal Minister.

(2) Under what preconditions, in cases other than those referred to in Paragraph 1, complaints can also be brought against administrative authorities because of illegality, in the particular field of administration, is determined in the Federal and *Land* Laws.

(3) The Administrative Court can reject consideration of a complaint against a finding (*Bescheid*) of an independent Administrative Senate (*Verwaltungssenates*) or the Federal Contract Awarding Office (*Bundesvergabeamt*), when the finding does not depend on the resolution of a legal issue of fundamental importance, especially because the independent Administrative Senate deviates from the adjudication of the Administrative Court. Such adjudication is lacking or if the legal issue to be resolved has not been answered consistently in penal administrative only a small monetary penalty was imposed.[\[70\]](#)

Article 132

Complaint because of violation of the duty of decision-making by administrative authorities, including the independent administrative tribunals can be brought by someone, who, as a party was entitled to claim the fulfillment of the decision-making duty; this does not apply to private suits and to financial penal matters.

Article 133

Excluded from the competence of the Administrative Court are:

1. Matters which come under the competence of the Constitutional Court;
2. Abrogated;
3. Matters relating to patents;
4. Matters in which the decision in the highest instance is vested in a collegial authority, if, in accordance with the Federal or *Land* Law, which regulate the organization of this authority, there is at least one judge among the members, also if the remaining members in the exercise of their office, are not bound by any instructions [if] the rulings of the authority are not subject to cancellation or alteration in the administrative process [and if], notwithstanding the existence of these preconditions, the complaint to the Administrative Court is not expressly declared admissible.

Article 134

(1) The Administrative Court consists of a President, a Vice President and the required number of other members (Senate presidents and counselors).

(2) The President, the Vice President and the remaining members of the Administrative Court are appointed by the Federal President on the proposal of the Federal Government. The Federal Government presents its recommendations, insofar as it does not concern the appointment to the position of President or Vice President, on the basis of a list of three candidates [for each position submitted] by the plenary assembly of the Administrative Court.

(3) All members of the Administrative Court must have completed their studies in law or in law and political science and [must have] occupied for at least ten years a professional

position for which the completion of these studies is prescribed. At least one-third of the members must have the qualification for judicial office; at least one-fourth shall be drawn from professional positions in the *Länder*, where possible for the administrative service of the *Länder*.[\[71\]](#)

(4) Members of the Federal Government, a *Land* Government or a general representative body cannot belong to the Administrative Court; for members of the general representative bodies, who are elected for a certain legislative or functional period, the incompatibility continues until the expiration of the legislative or functional period even in the event of premature renunciation of the mandate.

(5) No one who has occupied one of the functions specified in Paragraph 4 during the last four years can be appointed President or Vice President of the Administrative Court.

(6) All members of the Administrative Court are professionally employed judges. The provisions of Article 87, Paragraphs 1 and 2, and Article 88, Paragraph 2, are applicable to them. On December 31 of the year in which they complete the age of sixty-five, the members of the Administrative Court, as mandated by law, enter into a permanent retirement.

Article 135

(1) The Administrative Court renders decisions in chambers (*Senat*), which are to be constituted by the plenary assembly from the members of the Court.

(2) The cases (*Geschäfte*) for the period determined by Federal Law, shall be distributed in advance by the plenary assembly among the chambers.

(3) A matter assigned to a member, in accordance with this distribution, may not be taken from him, except in the event of disablement (*Behinderung*).

(4) Article 89 applies correspondingly for the Administrative Court.

Article 136

The more detailed provisions concerning the organization, scope of responsibility (*Aufgabenkreis*) and procedure of the Administrative Court will be regulated by a special Federal Law and by procedural rules (*Geschäftsordnung*), which are to be passed by the plenary assembly on its basis.

D. Constitutional Court

Article 137

The Constitutional Court renders judgment concerning pecuniary legal claims against the Federation, the *Länder*, the municipalities and associations of municipalities which cannot be settled either by means of the ordinary judicial process or by a ruling of an administrative authority.[\[72\]](#)

Article 138

(1) The Constitutional Court decides, furthermore, in conflicts of competence

a) between courts and administrative authorities;

b) between the Administrative Court and all other courts, especially also between the Administrative Court and the Constitutional Court itself, as well as between the ordinary courts and other courts;

c) between the *Länder* among themselves as well as between a *Land* and the Federation.

(2) The Constitutional Court determines, furthermore, on 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 *Länder*.

Article 138a

(1) On the application of the Federal Government or a participating *Land* Government, the Constitutional Court determines whether an agreement in the sense of Article 15a, Paragraph 1, exists and whether the obligations, resulting from such an agreement, insofar as they do not involve pecuniary legal claims, have been fulfilled.

(2) If in an agreement [in] the sense of Article 15a, Paragraph 2 provision is made for it, the Constitutional Court determines, on the application of a participating *Land* Government, whether such an agreement exists and whether the obligations resulting from such an agreement, insofar as they do not involve pecuniary legal claims, have been fulfilled.

Article 139

(1) The Constitutional Court decides the illegality of ordinances of Federal or *Land* authority on the application of a court, an independent Administrative Office or the Federal Contract Awarding Office, but *ex officio* if the Constitutional Court were to apply such an ordinance in a pending legal matter. It decides concerning illegality of ordinances of a *Land* authority also on the application of the Federal Government and concerning illegality of ordinances of a Federal authority also in the application of a *Land* authority and concerning the illegality of ordinances of a Municipality authority, in accordance with Article 119a, Paragraph 6, also on the application of the affected Municipality. It decides, furthermore, concerning the illegality of ordinances on the application of a person who alleges to have been violated in his [her] rights, insofar as the ordinance became effective for this person without the pronouncement of a judicial decision or the issuance of a directive; for such applications Article 89, Paragraph 3 applies correspondingly.[\[73\]](#)

(2) If a party is found to be without legal recourse (*Klaglos*) in a legal matter pending before the Constitutional Court, in which the Constitutional Court is to apply an ordinance, an already initiated procedure for the testing of the legality of the ordinance is nevertheless to be continued.

(3) The Constitutional Court may nullify an ordinance as illegal only to the extent that its nullification was expressly applied for or as the Constitutional Court would have to apply it in a legal matter pending before it. However, if the Constitutional Court comes to the conclusion (*Auffassung*) that the entire ordinance

a) lacks a legal foundation,

b) was enacted by an authority lacking in competence, or

c) was published in a matter contrary to law it is to nullify the entire ordinance as contrary to law. This does not apply if the nullification of the entire ordinance would obviously run counter to the legal interests of the party which has brought the application in accordance with the last sentence of Paragraph 1 or whose legal matter was the cause for the initiation of an official procedure for the testing of the ordinance (*Verordnungsprüfungsverfahren*).

(4) If the ordinance at the time of the rendering of the decision of the Constitutional Court has already ceased to be in force and if the procedure was initiated *ex officio* or if the application was made by a court, an independent Administrative Senate, the Federal Contract Awarding Office or by a person who alleges to have been directly harmed in his [her] rights by the illegality of the ordinance, then the Constitutional Court must pronounce whether the ordinance was illegal. Paragraph 3 applies correspondingly.[\[74\]](#)

(5) The decision of the Constitutional Court which voids the ordinance as contrary to law obligates the competent authority of the Federation or the *Land* to publish its voidance without delay. This applies correspondingly in the case of a decision in accordance with Paragraph 4. The voidance enters into force at the end of the day of publication, if the Constitutional Court does not set a time limit for the voidance, which may not exceed six months, but if legal measures (*Vorkehrungen*) are required [not to exceed] 18 months.[\[75\]](#)

(6) If an ordinance was voided because it was contrary to law or if the Constitutional Court, in accordance with Paragraph 4, has declared that an ordinance is contrary to the law, then all courts and administrative authorities are bound by the decision of the Constitutional Court. However, except for the pending case, the ordinance is to be further applied, to cases involving conditions (*Tatbestände*) which were realized before the voidance, unless the Constitutional Court declares otherwise in its voiding decision. If the Constitutional Court in its voiding decision has set a time limit, in accordance with Paragraph 5, then the ordinance is to be applied to all cases which were realized before the expiration of this time limit, with the exception of pending cases (*Anlassfall*).

Article 139a

The Constitutional Court decides upon the illegality of notifications concerning the re-promulgation of a law (State treaty) on application by a court, by an independent Administrative Senate or the Federal Contract Awarding Office, but *ex officio* if the Constitutional Court were to apply such a notification in a pending legal matter. It decides upon the illegality of such notifications by a *Land* also on the application of the Federal Government and on the illegality of such notifications by the Federation also on the application of a *Land* government. It decides furthermore upon the illegality of such notifications also on the application of a person, who alleges a direct infringement of his or her rights through this illegality, insofar as the notification has become operative against this person without the rendering of a judicial decision or without the issuance of a ruling (*Bescheid*). Article 139 Paragraphs 2 to 6 shall be applied correspondingly.[\[76\]](#)

Article 140

(1) The Constitutional Court decides on the unconstitutionality of a Federal or *Land* Law on the application of the Administrative Court, the Supreme Court, a court which is competent to render a decision in the second instance, an independent Administrative Senate or the Federal Contract Awarding Office, but *ex officio* if the Constitutional Court were to apply such a law in a pending legal matter. It decides on the unconstitutionality of *Land* laws on the application of the Federal Government and on the unconstitutionality of Federal Laws on the application of the *Land* Government or of a third of the members of the National Council or by one-third of the members of the Federal Council. By means of [a] *Land* Constitutional Law, it may be stipulated that such a right of application (*Antragsrecht*) with respect to the unconstitutionality of *Land* laws belongs also to a third of the members of the *Land* legislature. The Constitutional Court decides, furthermore, concerning unconstitutionality of laws on the application of a person who claims to have been directly hurt in his [her] rights by this unconstitutionality, insofar as the law becomes effective for this person, without the rendering of a judicial decision or the issuance of a directive; for such applications Article 89, Paragraph 3 applies correspondingly.[\[77\]](#)

(2) If in a legal matter pending before the Constitutional Court, the Constitutional Court has to apply a law which does not provide an action to the party, an already initiated proceeding for the testing of the constitutionality of the law is nevertheless to be continued.

(3) The Constitutional Court may void a law as being contrary to the Constitution only insofar as its voidance has been expressly applied for, or as the Constitutional Court would be required to apply the law in a legal matter pending before it. However, if the Constitutional Court finds that the entire law was enacted by a legislative organ, which was not authorized in accordance with the division of powers (*Kompetenzverteilung*) or if it was promulgated in an unconstitutional manner, then the entire law is to be voided as being contrary to the Constitution. This does not apply if the voidance of the entire law is obviously contrary to the legal interests of the party, who has made the application in accordance with the last sentence of Paragraph 1 or whose legal matter prompted the initiation of an *ex officio* procedure to test the law.

(4) If the law, at the time of the rendering of the decision by the Constitutional Court, was already out of force, and if the procedure was initiated *ex officio*, or if the application was made by a court, an independent Administrative Senate, the Federal Contract Awarding Office or by a person who claims to have been directly hurt in his [her] rights by the unconstitutionality of the law, [then] the Constitutional Court is to declare whether the law was unconstitutional. Paragraph 3 applies correspondingly.[\[78\]](#)

(5) The decision of the Constitutional Court, which voids a law as being unconstitutional, obligates the Federal Chancellor or the competent *Land* Governor to publication of the voidance without delay. This applies correspondingly in the case of a declaration in accordance with Paragraph 4. The voidance enters into force, at the end of the day of the publication, if the Constitutional Court does not specify a time for voidance. This time limit may not exceed 18 months.[\[79\]](#)

(6) If, by a decision of the Constitutional Court a law is voided as being unconstitutional, on its day of effectiveness of the voidance, if the decision does not declare otherwise, the legal provisions which had been abrogated by the law which the Constitutional Court has declared to be unconstitutional come again into force. In the publication concerning the voidance of the law it shall also announce whether and which legal provisions enter into force again.

(7) If a law was voided because of unconstitutionality, or if the Constitutional Court has declared, in accordance with Paragraph 4, that a law was unconstitutional, then all courts and administrative authorities are bound by the declaration. However, the law is to continue to be applied to situations which existed before the voidance, with the exception of the pending case, insofar as the Constitutional Court does not declare otherwise in its voiding decision. If the Constitutional Court in its voiding decision has set a time period, in accordance with Paragraph 5, then the law is to be applied to all situations realized before the expiration of this time period, with the exception of the pending case.

Article 140a

(1) The Constitutional Court decides on the illegality of State treaties. In this Article 140 shall be applied to State treaties which were concluded with the approval of the National Council, in accordance with Article 50 and to law-modifying (*Gesetzändernde*) and law-supplementing (*Gesetzesergänzende*) treaties pursuant to Article 16, Paragraph 1, Article 139 to all others with the proviso that State treaties whose illegality or unconstitutionality have been determined to be unconstitutional by the Constitutional Court are not to be applied by the authority charged with their execution, with the end of the day of publication of the decision unless the Constitutional Court sets a time limit within which such a State treaty shall continue to be applied. This time limit is, in the case of the treaties referred to in Article 50 and the State treaties which are law-modifying or law-supplementing, two years, in case of all others one year, [and] cannot be exceeded.[\[80\]](#)

(2) If the Constitutional Court determines the illegality or unconstitutionality of a State treaty, an order taken by the Federal President in accordance with Article 65 Paragraph 1 second sentence or a resolution adopted by the National Council in accordance with Article 50 Paragraph 2 ceases to have effect at the end of the day on which the judgment is published.[\[81\]](#)

Article 141

(1) The Constitutional Court decides

- (a) concerning challenges of the election of the Federal President, the elections to general representative bodies, the European Parliament and to the legislative organs (representative bodies) of legal professional representations;
- (b) concerning challenges of elections to a *Land* Government and the communal organs entrusted with executive authority;
- (c) upon the application by a general representative body concerning the loss of the mandate by one of its members;
- (d) on the application if a legislative organ (representative body) of a legal professional representation concerning the loss of the mandate of one such organ;
- (e) insofar as in the Federal or *Länder* Laws which regulate the elections, provision is made for the declaration of a loss of mandate by a ruling or an administrative authority, concerning the challenge of such rulings, through which the loss of the mandate was declared in a general representative body, in a communal organ entrusted with executive authority or in a

legislative organ (representative body) of a legal professional representation, after the exhaustion of the appellate process. The challenge (the application) can be based on the alleged illegality of the electoral procedure or on a legally defined reason for the loss of membership in a general representative body, in the European Parliament, in a communal organ entrusted with executive authority or in a legislative organ (representative body) of a legal professional representation. The Constitutional Court has to admit a challenge of an election, if the alleged illegality has been proven and if it had influence on the election result. In the proceeding before the administrative authority the general representative body and the legal professional representation have also the status of litigant parties.

(2) If a challenge according to Paragraph 1 Subparagraph 1a is permitted and thus it becomes necessary to hold a new election in whole or in part to a general representative body, to the European Parliament or to a constituent organ of a legal professional representative body, the members of this representative body lose their mandate at the time of its assumption by those members, who were elected within 100 days after the issuance of the decision of the Constitutional Court.

(3) Under what circumstances the Constitutional Court has to decide concerning challenges to the results of popular initiatives, plebiscites or referenda is regulated by Federal Law. By Federal Law it can also be specified how long in view of such a possibility of a challenge, the publication of the Federal Law concerning the completed referendum, has to be held in abeyance.

Article 142

(1) The Constitutional Court decides concerning the indictment (*Anklage*) with which the constitutional responsibility of the highest Federal and *Land* authorities for culpable legal contraventions committed in their official activity is invoked.

(2) The indictment may be brought:

(a) against the Federal President because of violation of the Federal Council;

(b) against the members of the Federal Government and organs who are placed on equal footing with them in regard to their responsibility: by resolution of the National Council;

(c) against an Austrian representative in the Council for violations of the law in matters of legislation which pertain to the Federation: by a vote of the National Council for violation of law in matters in which legislation pertains to the *Länder*; by identically worded votes of all the *Land* legislatures;

(d) against the members of the *Land* Government and the organs who are placed on equal footing with them in regard to new responsibility: by resolution of the competent *Land* legislature;

(e) against the *Land* Governor, his deputy (Article 105, Paragraphs 2 and 3) because of violation of the law as well as noncompliance with ordinances or other directives (instructions) of the Federation on matters pertaining to Federation administration if it concerns a member of the *Land* Government also with reference to instructions of the *Land* Government in these matters: by resolution of the Federal Government;

(f) against organs of the Federal Capital, Vienna, insofar as they take care in their own operational area from the operational area of the Federal execution because of the violation of law: by resolution of the Federal Government;

(g) against the *Land* Governor for nonobservance of an instruction pursuant to Article 14, Paragraph 8: by resolution of the Federal Government;

(h) against a President of a *Land* school board for violation of the law and nonobservance of ordinances and other directives (instructions) of the Federation by resolution of the Federal Government;

(i) against the members of a *Land* government for violation of the law and non-compliance with the decrees of the Federation in matters covered by Article 11 Paragraph 1 Subparagraph 7 and obstruction of the powers referred to in Article 11 Paragraph 9, by resolution of the National Council or the Federal Government.[\[82\]](#)

(3) If the Federal Government pursuant to Paragraph 2, Subparagraph e, brings a suit only against a *Land* Governor or his deputy, and it is shown that another member of the *Land* Government who, in accordance with Article 103, Paragraph 2, in accordance with matters pertaining to indirect Federal administration, is guilty within the meaning of Paragraph 2, Subparagraph e, the Federal Government can at any time until rendering of the decision, enlarge its indictment also to this member of the *Land* Government.

(4) The judicial decision of the Constitutional Court shall declare the forfeiture of the office, and under particularly aggravating circumstances also the temporary forfeiture of political rights; in minor violations of the law in cases mentioned in Paragraph 2 under c, e, g and h the Constitutional Court may limit itself to the ascertainment that a violation of the law exists. The forfeiture of the Office of the President of the *Land* School Board results also in the forfeiture of that office, with which the office is linked, according to Article 81a, Paragraph 3, Subparagraph (b).

(5) The Federal President can avail himself, according to Article 65 Paragraph 2, Subparagraph c, of the right vested in him [but] only on the request of the representative body or representative bodies who voted for the indictment, but if the Federal Government has voted for the indictment, only on its request, and in all cases with the consent of the defendant.

Article 143

The indictment of those named in Article 142 can be brought also because of actions committed in connection with official activity, which are prosecutable under penal law. In this case only the Constitutional Court shall be competent; any investigations already pending in the ordinary criminal Court shall be transferred to it. The Constitutional Court may in such cases apply the provisions of the penal law in addition to those of Article 142, Paragraph 4.

Article 144

(1) The Constitutional Court decides about complaints against rulings by the administrative authorities including the independent administrative tribunals insofar as the complainant alleges a violation of one of his or her constitutionally protected rights or a violation of his or

her rights resulting from the application of an illegal ordinance, an illegal notification of the re-promulgation of a law (State treaty), an unconstitutional law or an illegal State treaty. The complaint cannot be filed until after the exhaustion of all stages of appeals (*Instanzenzug*).[\[83\]](#)

(2) The Constitutional Court can decide before the proceedings to reject a hearing of the complaint, if it has no reasonable prospect of success or if the decision cannot be expected to result in a clarification of a constitutional question. The rejection of a hearing is inadmissible, if it concerns a case, which according to Article 133 is excluded from the competence of the Administrative Court.

(3) If the Constitutional Court finds that a right within the meaning of Paragraph 1 has not been violated, and it does not concern a case, which according to Article 133 is not excluded from the competence of the Administrative Court, the Constitutional Court, on the request of the complainant, shall transfer the complaint to the Administrative Court for a decision, whether the complainant was injured by the ruling [or] infringed upon in some other right. This applies correspondingly to complaints according to Paragraph 2.[\[84\]](#)

Article 145

The Constitutional Court decides concerning violations of International law in accordance with a special Federal Law.

Article 146

(1) The enforcement of decisions (*Exekution der Erkenntnisse*) of the Constitutional Court pursuant to Articles 126a, 127c and 137 is carried out by the ordinary courts.[\[85\]](#)

(2) The enforcement of other decisions of the Constitutional Court is incumbent upon the Federal President. It is to be carried out in accordance with his instructions by the organs, commissioned by him thereto at his discretion, of the Federation or the *Länder*, including the Federal Army. The request for implementation of such decisions shall be made by the Constitutional Court to the Federal President. The mentioned instructions by the Federal President require, if they concern enforcement against the Federation or against Federal organs, no countersignature in accordance with Article 67.

Article 147

(1) The Constitutional Court consists of a President, a Vice President, twelve additional members and six alternate members.

(2) The President, 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 alternate members shall be selected from the circle of judges, administrative officials, and professors of a field of jurisprudence in a university. The remaining six members and substitute members are appointed by the Federal President on the basis [of] proposals presented 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 permanent domicile outside the Federal capital: Vienna. Administrative officials of the Civil Service (*Dienststand*) who are appointed

members or alternate members [of the Constitutional Court] are to be retired without their salaries. This does not apply to administrative officials, who have been appointed alternate members, who have been freed from all directed activities, for the duration of this exemption (*Befreiung*). Administrative officials, who are appointed to members of the Constitutional Court, are to be retired with forfeiture of their salaries.[\[86\]](#)

(3) The President, the Vice President as well as the remaining members and the alternate members must have completed their studies in law or in law and political science and already have occupied for at least ten years a professional position, for which the completion of these studies is prescribed.[\[87\]](#)

(4) The following cannot belong to the Constitutional Court: members of the Federal or *Land* Government, furthermore members of the National Council, the Federal Council or some other general representative body; for members of these representative bodies, who are elected for a certain legislative or functional period, the incompatibility continues until the expiration of the legislative or functional period even in the event of premature renunciation of their mandate. Finally, no persons can belong to the Constitutional Court, who are employees or other functionaries of a political party.

(5) No one who has occupied one of the functions specified in Paragraph 4 during the last four years can be appointed President or Vice President of the Constitutional Court.

(6) Article 87, Paragraphs 1 and 2, and Article 88, Paragraph 2, apply to the members and the alternate members of the Constitutional Court; detailed provisions will be regulated, pursuant to Article 148, in a Federal Law. As [the] age limit, on whose attainment their [term of] office ends, December 31 of that year is fixed in which the judge completes the seventieth year of age.[\[88\]](#)

(7) If a member or alternate member, without sufficient excuse, does not respond to three consecutive notices (*Einladungen*) to a session of the Constitutional Court, the Constitutional Court, after hearing him, shall record this. This statement (*Feststellung*) entails loss of membership or the status of alternate member.

Article 148

More detailed provisions concerning the organization and the procedure of the Constitutional Court are regulated by a special Federal Law and by Rules to be established by the Constitutional Court on the basis of this [law].

CHAPTER VII

The Office of the People's Attorney (*Volksanwaltschaft*)

Article 148a

(1) Anyone may lodge a complaint at the *Volksanwaltschaft* against alleged mismanagement (*Misstände*) in the administration of the Federation including its activity as holder of private rights insofar as he has been affected by these [acts of] mismanagement and insofar as he has no legal remedy or that he no longer has any recourse to it. Every such complaint must be investigated by the *Volksanwaltschaft*. The complainant shall be informed of the result of the investigation and, if need be, of resulting actions (*getroffene Veranlassungen*).

(2) The *Volksanwaltschaft* is entitled *ex officio* to investigate suspected misadministration of the Federation including its activity as a holder of private rights.

(3) Moreover, it is incumbent on the *Volksanwaltschaft* to assist in the disposal of petitions and citizens' initiatives (*Bürgerinitiative*). Details are provided by the Federal Law on the Procedure of the National Council.

(4) The *Volksanwaltschaft* is independent in the exercise of its office.

Article 148b

(1) All organs of the Federation, the *Länder* and the Municipalities shall support the *Volksanwaltschaft* in the performance (*Besorgung*) of its tasks, allow it to inspect records and, upon request, provide the required information. Official secrecy does not exist in relation to the *Volksanwaltschaft*.

(2) The *Volksanwaltschaft* is subject to official secrecy to the same extent as the organ which the *Volksanwaltschaft* has approached in fulfillment of its tasks. In the presentation of reports to the National Council, the *Volksanwaltschaft* is bound to safeguard official secrecy only insofar as it is required in the interests of the parties or national security.

Article 148c

The *Volksanwaltschaft* can make recommendations to the organs entrusted with the highest administrative tasks in a specific case or concerning measures to be taken arising from a specific case. In matters of the self-administration or of administration by authorities that are not subject to directives (*Weisungsfrei*), the *Volksanwaltschaft* can make recommendations to the competent organ of self-administration or the authority, not subject to directives; such recommendations shall also be brought to the attention of the highest administrative authority of the Federation. The concerned agency (*betreffende Organ*) must either accept the recommendations within a time limit specified by Federal Law and to inform the *Volksanwaltschaft* accordingly or to justify in writing why the recommendations were not accepted.

Article 148d

The *Volksanwaltschaft* must annually report to the National Council and the Federal Council concerning its activity. The members of the *Volksanwaltschaft* have the right to participate in the negotiations concerning the reports of the *Volksanwaltschaft* to the National Council and the Federal Council as well as their committees (subcommittees) and, on their request, to be heard every time. This right belongs to the members of the *Volksanwaltschaft* also with respect to the negotiations pertaining to the *Volksanwaltschaft* in the chapter of the Draft Federal Finance Law in the National Council and its committees (subcommittees). Details are provided in the Federal Law concerning the Procedure of the National Council and the Procedure of the Federal Council. [\[89\]](#)

Article 148e

On application by the *Volksanwaltschaft*, the Constitutional Court decides on the illegality of decrees [issued] by the administrative agency.

Article 148f

If differences of opinion arise between the *Volksanwaltschaft* and the Federal Government or a Federal Minister concerning the interpretation of legal provisions, which regulate the competence of the *Volksanwaltschaft*, the Constitutional Court, on application by the Federal Government or the *Volksanwaltschaft*, may decide in a closed proceeding.

Article 148g

(1) The *Volksanwaltschaft* has its seat in Vienna. It consists of three members, one of whom in turn acts as Chairman. The term of office is six years. Re-election of members of the *Volksanwaltschaft* more than once is inadmissible.

(2) The members of the *Volksanwaltschaft* are elected by the National Council on the basis of a joint proposal (*Gesamtvorschlagn*) of the Main Committee. The Main Committee presents its joint proposal in the presence of at least one-half of its members. The three parties with the most mandates are each entitled to nominate one member for this joint proposal. Before the assumptions of their office, the members of the *Volksanwaltschaft* present an affirmation to the Federal President.

(3) The chairmanship of the *Volksanwaltschaft* rotates annually between the members in the order (*Reihenfolge*) of the voting strength (*Mandatsstärke*) of the political parties who have made the nominations. This order remains unchanged during the term of office of the *Volksanwaltschaft*.

(4) In case of a premature departure of a member of the *Volksanwaltschaft*, the party represented in the National Council that has nominated this member shall nominate a new member. The new election for the remaining term of office is to be carried out in accordance with Paragraph 2.

(5) The members of the *Volksanwaltschaft* must be eligible for the National Council; during their official term, they may not belong to the Federal Government, or to a *Land* Government or a general representative body and they may not practice any other profession.

Article 148h

(1) The officials of the *Volksanwaltschaft* are appointed by the Federal President on the recommendation and with the countersignature of the Chairman of the *Volksanwaltschaft*. The same applies to the granting of official titles. However, the Federal President may empower the Chairman of the *Volksanwaltschaft* to appoint officials of certain categories. The auxiliary forces are appointed by the Chairman of the *Volksanwaltschaft*. The Chairman is to that extent (*insoweit*) the supreme administrator (*Verwaltungsorgan*) and exercises these powers in his own right.

(2) The service prerogative (*Diensthoheit*) of the Federation in relationship to the employees at the *Volksanwaltschaft* is exercised by the Chairman.

(3) The *Volksanwaltschaft* establishes for itself a business order (*Geschäftsordnung*) as well as a distribution of work in which it is to be determined which tasks are to be performed

independently by the members of the *Volksanwaltschaft*. The adoption of the business order and business distribution requires the unanimity of the members of the *Volksanwaltschaft*.

Article 148i

(1) By Constitutional Law of a *Land* [or *Länder*] the *Volksanwaltschaft* can be declared competent in the area of administration of the particular *Land*. In such a case, Articles 148e and 148f shall be applied correspondingly.

(2) If the *Länder* create institutions (*Einrichtungen*) with tasks that are similar (*gleichartig*) to those of the *Volksanwaltschaft* regulation[s], corresponding [Articles] to Articles 148e and 148f may be established by *Land* Constitutional Law.

Article 148j

Detailed provisions pertaining to the implementation of this Chapter shall be made by Federal Constitutional Law.

CHAPTER VIII Final Provisions

Article 149

(1) Aside from this law, the following laws shall be valid as Constitutional Laws within the meaning of Article 44, Paragraph 1, taking into consideration the modifications conditioned by this law:

Basic Law of the State of December 21, 1867, RGBL. No. 142 concerning the general rights of State citizens of the kingdoms and *Länder* represented in the Reichsrat;

Law of October 27, 1862, RGBL. No. 87, for the protection of personal freedom;

Law of October 27, 1862, RGBL. No. 80, for the protection of the rights of the home;

Resolution of the Provisional National Assembly of October 30, 1918, StGBI. No. 3;

Law of April 3, 1919, StGBI. No. 209, concerning the banishment and expropriation of the property of the House of Habsburg-Lothringen;

Law of April 3, 1919, StGBI. No. 211, concerning the abolition of the nobility of the secular orders (*Ritter und Damen*) and certain titles and dignities;

Section V of Part III of the Treaty of St. Germain of September 10, 1919, StGBI. No. 303 of 1920.[\[90\]](#)

(2) Article 20 of the Basic Law of the State of December 21, 1867, RGBL. No. 142, as well as the Law of May 5, 1869, RGBL. No. 66, issued on the basis of this law cease to be operative.

Article 150

(1) The transition to the Federal Council which is introduced by this Law is regulated by a special law which comes into force simultaneously with this Constitutional Law.

(2) Laws which correspond to a new formulation of the provisions of the Federal Constitutional Law may be issued as from the promulgation of the Federal Constitutional Law, which makes the change effective. However, they may not come into force before the coming into force of legal provisions of the new Federal Constitutional Law, insofar as they do not merely provide for measures, which are required for the incipient implementation provisions of the new Federal Constitutional Law.

Article 151

(1) The Articles 78d and 118(8) in the formulation of the Federal Constitutional Law BGBl. No. 565/1991 enter into force on January 1, 1992. Guarding units in existence on January 1, 1992 are not affected; this provision enters into force on January 1, 1992.[\[91\]](#)

(2) The Articles 10 (1) (subparagraph 7), 52a 78a to 78c, Article 102 (2), the changed designation in the third chapter and in Article 102 in the formulation of the Federal Constitutional Law BGBl. No. 565/1991 enter into force on May 1, 1993.[\[92\]](#)

(3) Article 102 (5) second sentence as well as paragraphs (6) and (7) cease to be in force with the end of April 30, 1993. The word sequence “with the exception of the local security police” in Article 102(2) is abrogated effective April 30, 1993.[\[93\]](#)

(4) The Articles 26, 41 (2), 49 (3), 56 (2 to 4), 95 (1 to 3), 96 (3), furthermore the new designation of paragraph 1 in Article 56 (2 to 4), in the formulation of the Federal Constitutional Law BGBl. No. 470/1992 enter into force on May 1, 1993.[\[94\]](#)

(5) Abrogated.[\[95\]](#)

(6) The following provisions in the formulation of the Federal Constitutional Law [published in] BGBl. No. 508/1993 enter into force as follows:

1. Article 10, Paragraph 1 Subparagraph 9, Article 11, Paragraph 1, Subparagraph 7 as well as Article 11, Paragraphs 6, 7, 8, and 9 on July 1, 1994.

2. Article 28, Paragraph 5, Article 52, Paragraph 2, the designation of the previous Article 52, Paragraphs 2 and 3 as Paragraphs 3 and 4 as well as Article 52b enter into force on October 1, 1993.[\[96\]](#)

3. Abrogated.[\[97\]](#)

(7) Article 142 Paragraph (2)*h* and *i* in the wording of the Federal Law BGBl. I No. 100/2003 come into force on January 1, 2010; on the same date Article 11 Paragraph 7 in the wording of the Federal Constitutional Law BGBl. No. 508/1999 and of the Federal Law BGBl. I No. 100/2003 and Article 11(8) in the wording of the Federal Laws BGBl. I No. 114/2000 and BGBl. I No. 100/2003 cease to have effect. The independent environmental tribunal remains competent for the completion of those procedures that are still pending on that date.[\[98\]](#)

(7a) Article 102 (2) in the formulation of the Federal Constitutional Law BGBl. I No. 2/ 1997 enters into force on January 1, 1994. Article 102 (2) in the formulation of Federal Constitutional Law No. 532/1993 at the same time ceases to be in force.[\[99\]](#)

(8) Article 54 in the formulation of the Federal Constitutional Law [published in] BGBl. I No. 268/1991 enters into force on April 1, 1994.

(9) Article 6, Paragraphs 2 and 3, Article 26, Paragraph 2, Article 41, Paragraph 2, Article 49b, Paragraph 3 and Article 117, Paragraph 2 first sentence in the formulation of the Federal Constitutional Law [as published in] BGBl. I No. 504/1991 enter into force on January 1, 1995. In the financial regulations of the Federation and the *Länder* with effect from January 1, 1996, the term “ordinary domicile” is replaced by the term “principal residence” in the appropriate grammatical form, insofar as the term “ordinary residence” is not replaced and the term “principal residence” by the end of December 31, 1995 by the term “domicile”. As of January 1, 1995 the term “ordinary residence” must no longer be used in the legal regulations of the Federation and the *Länder*; for as long as the *Land* Laws do not provide that the right to vote for the *Land* legislature and the communal legislature is determined by the principal residence or the residence (*Wohnsitz*), it depends on the ordinary residence. Until the certification (*Vorliegen*) of the results of the next general census, after the specified date of effectiveness the distribution of the number of deputies among the constituencies (electoral bodies) and of the regional constituencies (Article 26, Paragraph 2) as well as the representation of the *Länder* in the Federal Council (Article 34) the ordinary residence, determined after the results of the last census, is to be equated with the principal residence.

(10) Article 87, Paragraph 3 and Article 88a in the formulation of the Federal Council [as published in] BGBl. I No. 506/1994 enters into force on July 1, 1994.

(11) For the coming into force of the newly formulated or inserted provisions by means of the Federal Constitutional Law No. 1013/1994, for the abrogation, by the same Federal Constitutional Law as well as the transition to the new legal situation, the following applies:

1. The title of the law, Article 21, Paragraphs 6 and 7, Article 56, Paragraphs 2 and 4, Article 122, Paragraphs 3 to 5, Article 123a, Paragraph 1, Article 124, Article 147, Paragraph 2, second sentence, as well as Article 150, Paragraph 2 enter into effect on January 1, 1995.

2. The heading of Chapter 1, the heading of Section A in Chapter 1, Article 10, Paragraph 1, Subparagraph 18, Article 16, Paragraph 4, Section B of Chapter 1, Article 30, Paragraph 3, Article 59, Article 73, Paragraph 2, Article 117, Paragraph 2, Article 141, Paragraphs 1 and 2, Article 142, Paragraph 2, Subparagraph c and designations of the present Subparagraphs d to i as well as Article 142, Paragraphs 3 to 5 enter into force simultaneously with the State Treaty on the Accession of the Republic of Austria to the European Union.

3. At the same time with the entering into force of the provisions specified in Subparagraph 2, Article 10, Paragraphs 4 to 6 and Article 16, Paragraph 6 in the formulation of the Constitutional Law [published in] BGBl No. 276/1992 cease to be in force.

4. Article 122, Paragraph 1 and Article 127b come into force on January 1, 1997. They apply to the financial management proposal (*Gebarungsvorgänge*) after December 31, 1994.

5. As long as the representatives of Austria in the European Parliament are not elected on the basis of a general election, they are delegated (*entsendet*) by the National Council from among the members of the Federal Assembly. This delegation ensues on the basis of proposals [made] by the parties represented in the National Council in accordance with their strength pursuant to the principle of proportional representation. For the duration of their delegation the members of the National Council and of the Federal Council can be simultaneously members of the European Parliament. Article 23b applies also correspondingly. If a member of the National Council who has been delegated to the European Parliament relinquishes his seat (*Mandat*) as a member of the National Council, Article 56, Paragraphs 2 and 3 apply.

6. Subparagraph 5 enters into force on December 22, 1994.

(11a) Article 112 in the formulation of the Federal Constitutional Law BGBl No. 1013/1994 and Article 103 (3) and Article 151 (6) line 3 in the formulation of Federal Constitutional Law BGBl No. 8/1999 enter into force on January 1, 1995.[\[100\]](#)

(12) Articles 59a, 59b and 95 (4) in the formulation of Federal Constitutional Law BGBl No. 392/1996 enter into force on August 1, 1996. Until the issuance of *Land* legal regulations in the implementation of Article 59a and Article 95 (4) the corresponding Federal legal provision applies correspondingly in the concerned *Länder*, insofar as the *Länder* have not already issued regulations in the sense of Article 59a and Article 95 (4).[\[101\]](#)

(13) Article 23e (6) and Article 28 (5) in the formulation of Federal Constitutional Law BGBl No. 659/1997 enter into force on September 15, 1996.[\[102\]](#)

(14) Articles 49 and 49a (1 and 3) in the formulation of Federal Constitutional Law BGBl No. 659/1996 enter into force on January 1, 1997.[\[103\]](#)

(15) Article 55 in the formulation of Federal Constitutional Law BGBl I No. 2/1997 enters into force on January 1, 1997. At the same time Article 5 ceases to be in force.[\[104\]](#)

(16) Article 147 (2) in the formulation of Federal Constitutional Law BGBl I No. 64/1997 enters into force on August 1, 1977.[\[105\]](#)

(17) Article 69 (2 and 3), Article 73 (1 and 3), as well as Article 148d in the formulation of Federal Constitutional Law BGBl I No. 87/1997 enter into force on September 1, 1997. Article 129b of the sixth chapter, Article 131 (3) and the new subsection designations in chapter 6 enter into force on January 1, 1998.[\[106\]](#)

(18) Article 9a (4) in the formulation of the Federal Constitutional Law BGBl I No. 30/1998 enters into force on January 1, 1998.[\[107\]](#)

(19) Article 23f enters into force simultaneously with the Treaty of Amsterdam. The Federal Chancellor shall announce this point in time in the *Federal Law Gazette*.[\[108\]](#)

(20) In Article 149 (1) cease to be in force—

(1) The addition by Federal Constitutional Law of Nov. 30, 1945 BGBl No. 6/1946 concerning the application of the Law for the protection of personal freedom of Oct. 27, 1862

RGBI No. 87, in the procedure before the *Volksgericht* with the expiration of December 30, 1995.

(2) The sequence of words “Law of May 8, 1919 St.G.BI No. 257 concerning the State emblem and State seal of the Republic Deutschösterreich” with the changes effected by Articles 2, 5 and 6 of the Law of Oct. 21, 1919 St.G.BI No. 484 with the conclusion of July 31, 1981.[\[109\]](#)

(21) The sequence of words “or through the exercise of direct command and coercive power” Article 144 (3) ceases to be in force with the conclusion of December 31, 1990.[\[110\]](#)

(22) The Article 10 (1) line 14, Article 15 (3 and 4) and the paragraph designation of Article 102 (6) and Article 118 (8), Articles 118a and 125 (3) in the version of Federal Constitutional Law BGBl No. 8/1999 cease to be in force as of January 1, 1999. Article 102 (5) ceases to be in force on December 31, 1998.[\[111\]](#)

(23) Article 30 (3) first sentence 127c, 129c (4), 147 (2) fourth and fifth sentences and Article 147 (6) first sentence in the version of the Federal Constitutional Law BGBl I No. 148/1999 enters into force on August 1, 1999.[\[112\]](#)

(24) Article 8 in the version of the Federal Constitutional Law BGBl I No. 68/2000 enters into force on August 1, 2000.[\[113\]](#)

(25) Article 11(8) in formulation of the Federal Constitutional Law BGBl I No. 114/2000 comes into force on December 1, 2000. Article 151(6) line 3 ceases to be in force with the end of November 26, 2000.[\[114\]](#)

(26) In the formulation of the Federal Constitutional Law BGBl I No. 121/2001, the following enter into force:

1. Article 18(3) and Article 23e(5) on January 1, 1997;

2. Article 21(1) and (6) on January 1, 1999;

3. Article 147(2) first sentence on August 1, 1999;

4. Article 18(4), Article 23b(2), Article 39(2) and Article 91(2) in January 2002;

5. Article 23f(1-3) simultaneously with the Treaty of Nizza. The Federal Chancellor shall announce this point in time in the Federal Gazette I.[\[115\]](#)

(27) Article 14b, Article 102(2) and Article 131(3) in the formulation of Federal Law BGBl I No. 99/2002 enter into force on January 1, 2003. §2, §4(1), §5 and §6 (1 and 2) of the Transition Law, BGBl No. 368/1925 apply correspondingly. A *Land* law, which was made a Federal Law by the second sentence on January 1, 2003, on the basis of a *Land* law based on Article 14b(3), ceases to have force at the latest with the end of June 30, 2003. At the time the corresponding provisions of Federal Law on the Awarding of Contracts (*Bundesvergabegesetz 2002*) BGBl I No. 99/2002, enter into force.[\[116\]](#)

(28) Article 23a (1) and (3), Article 26 (1) and (4), Article 41 (2), Article 46 (2), Art. 49b (3) and Art. 60(3) first sentence in the wording of the Federal Law BGBl. I No. 90/2003 enter into force on January 1, 2004.[\[117\]](#)

(29) Article 11 (8) in the wording of the Federal Laws BGBl. I No. 114/2000 and BGBl. I No. 100/2003 enters into force on December 1, 2000, Article 151 (7) in the wording of the Federal Law BGBl. I No. 100/2003 at the end of the day of publication of this Federal Law. Article 7(1), Article 8, Article 8a, Article 9a, Article 10 (1) (subparagraph 10), Article 13 (1), Article 14 (1), (5)(a) and (8), Article 14a, Article 15 (4), Article 18 (4) and (5), Article 23 (1) and (5), Article 23^c (6), Article 26, Article 30 (2), Article 34 (2), Article 35 (1), Article 42 (4), Article 47 (1), Article 48, Article 49, Article 49a, Article 51, Article 51a, Article 51b, Article 51c, Article 52b, Article 57, Article 71, Article 73, Article 81a (1), (4) and (5), Article 87a, Article 88a, Article 89, Article 97 (1) and (4), Article 102 (2), Article 112, Article 115, Article 116, Article 116a, Article 117, Article 118, Article 118a, Article 119, Article 119a, Article 126a, Article 126b (2), Article 127 (3), Article 127a, Article 127c, Article 134 (3), Article 135, Article 136, Article 137, Article 139, Article 139a, Article 140, Article 140a, Article 144, Article 146 (1), Article 147 (3), Article 148, Article 148a, Article 148b, Article 148^c to Article 148j and Article 149 and the titles and the other provisions in the wording of the Federal Law BGBl. I No. 100/2003 enter into force on January 1, 2004.[\[118\]](#)

(30) Article 11 Paragraph 1, Subparagraphs 7 and 8, and Paragraph 9 in the version of the Federal Law BGBl I No. 118/2004 enters into force on January 1, 2005, but not before the end of the day of the promulgation of the aforesaid law in the Federal Gazette. Insofar as the federal legislation does not provide otherwise, existing provisions of the *Länder* on matters covered by Article 11 Paragraph (1)8 cease to have effect on that date.[\[119\]](#)

(31) Article 10 (1) (subparagraph 9) and Article 151 (7) in the wording of the Federal Law BGBl. I Nr. 153/2004 enter into force on January 1, 2005.[\[120\]](#)

Article 152

The execution of this Federal Constitutional Law is entrusted to the Federal Government.

NOTES

[\[1\]](#) Article 7, paragraph (1), as amended by Federal Constitutional Law No. 87/1997 of Aug. 13, 1997.

[\[2\]](#) Article 7, paragraphs (2)-(4), as amended by Federal Constitutional Law No. 68/1998 of May 15, 1998.

[\[3\]](#) Article 8, as amended by Federal Constitutional Law No. 68/2000 of Aug. 8, 2000.

[\[4\]](#) Article 9a, paragraph (4), as added by Federal Constitutional Law No. 30/1998 of Jan. 14, 1998.

[\[5\]](#) Article 10, paragraph (1)9, as amended by Federal Constitutional Law No. 153/2004 of Dec. 30, 2004.

[6] Article 10, paragraph (1)14, as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[7] Article 11, paragraph (1)8, as added by Federal Constitutional Law No. 118/2004 of September 28, 2004.

[8] Article 11, paragraph (8), as amended by Federal Constitutional Law No. 114/2000 of Nov. 24, 2000.

[9] Article 11, paragraph (9), as amended by Federal Constitutional Law No. 138/2004 of September 28, 2004.

[10] Article 14b, as added by Federal Constitutional Law No. 99/2002 of June 28, 2002.

[11] Article 15, paragraphs (3) and (4), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[12] Article 18, paragraph (3), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001.

[13] Article 18, paragraph (4), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001 and Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[14] Article 18, paragraph (5), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[15] Article 21, paragraph (1), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001.

[16] Article 21, paragraphs (2)-(5), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[17] Article 21, paragraph (6), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001.

[18] Article 23, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[19] Article 23a, paragraph (1), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.

[20] Article 23a, paragraph (3), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.

[21] Article 23b, paragraph (2), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001.

[22] Article 23e, paragraph (5), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001.

- [\[23\]](#) Article 23e, paragraph (6), as amended by Federal Constitutional Law No. 392/1996.
- [\[24\]](#) Article 23f, as amended by Federal Constitutional Law No. 83/1998 of July 2, 1998 and Federal Constitutional Law No. 121/2001 of Nov. 16, 2001.
- [\[25\]](#) Article 26, paragraph (1), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.
- [\[26\]](#) Article 26, paragraph (4), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.
- [\[27\]](#) Article 28, paragraph (5), as amended by Federal Constitutional Law No. 437/1996 of Aug. 20, 1996.
- [\[28\]](#) Article 30, paragraph (2), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.
- [\[29\]](#) Article 30, paragraph (3), as amended by Federal Constitutional Law No. 148/1999 of Aug. 13, 1999.
- [\[30\]](#) Article 39, paragraph (2), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001.
- [\[31\]](#) Article 41, paragraph (2), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.
- [\[32\]](#) Article 46, paragraph (2), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.
- [\[33\]](#) Article 47, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.
- [\[34\]](#) Article 48, as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.
- [\[35\]](#) Article 49, as amended by Federal Constitutional Law No. 659/1996 of Nov. 29, 1996 and Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.
- [\[36\]](#) Article 49a, as amended by Federal Constitutional Law No. 659/1996 of Nov. 29, 1996 and Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.
- [\[37\]](#) Article 49b, paragraph (3), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.
- [\[38\]](#) Article 51b, paragraph (6), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.
- [\[39\]](#) Article 52b, paragraph (1), as amended by Federal Constitutional Law. No. 8/1999 of Jan. 8, 1999.
- [\[40\]](#) Article 54, as amended by Federal Constitutional Law No. 2/1997 of Jan. 10, 1997.

[\[41\]](#) Article 55, as amended by Federal Constitutional Law No. 2/1997 of Jan. 10, 1997.

[\[42\]](#) Article 59a, as amended by Federal Constitutional Law No. 392/1996.

[\[43\]](#) Article 59b, as inserted by Federal Constitutional Law No. 392/1996.

[\[44\]](#) Article 60, paragraph (2), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[\[45\]](#) Article 60, paragraph (3), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.

[\[46\]](#) Article 69, paragraphs (2)-(3), as amended by Federal Constitutional Law No. 87/1997 of Aug. 13, 1997.

[\[47\]](#) Article 73, paragraph (1), as amended by Federal Constitutional Law No. 87/1997 of Aug. 13, 1997.

[\[48\]](#) Article 73, paragraph (3), as amended by Federal Constitutional Law No. 87/1997 of Aug. 13, 1997.

[\[49\]](#) Article 78d, paragraph (2), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[\[50\]](#) Article 81a, paragraph (4), as amended by Federal Constitutional Law No. 100/2003 October 28, 2003.

[\[51\]](#) Article 89, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 October 28, 2003.

[\[52\]](#) Article 89, paragraph (4), as amended by Federal Constitutional Law No. 100/2003 October 28, 2003.

[\[53\]](#) Article 91, paragraph (2), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001—spelling correction in German.

[\[54\]](#) Article 95, paragraph (4), as amended by Federal Constitutional Law No. 392/1996.

[\[55\]](#) Article 97, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 October 28, 2003.

[\[56\]](#) Article 97, paragraph (4), as amended by Federal Constitutional Law No. 100/2003 October 28, 2003.

[\[57\]](#) Article 102, paragraph (2), as amended by Federal Constitutional Laws Nos. 2/1997, 8/1999 of Jan. 8, 1999; 99/2002 of June 28, 2002; and 100/2003 of Oct. 28, 2003.

[\[58\]](#) Article 102, paragraph (5), as amended by Constitutional Law No. 8/1999 of Jan. 8, 1999.

[59] Article 103, paragraph (3), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[60] Article 115, paragraph (2), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[61] Article 117, paragraph (6), as amended by Federal Constitutional Law No. 659/1996 of Nov. 29, 1996.

[62] Article 118, paragraph (8), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[63] Article 118a, as inserted by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[64] Article 125, paragraph (3), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[65] Article 127c, as inserted by the Federal Constitutional Law No. 8/1999 of Jan. 8, 1999 and amended by Federal Constitutional Law No. 90/2003 of October 28, 2003.

[66] Article 129, as amended by Federal Constitutional Law No. 87/1997 of Aug. 13, 1997.

[67] Article 129b, paragraph (6), as amended by Federal Constitutional Law No. 87/1997 of Aug. 13, 1997.

[68] Article 129c, as amended by Federal Constitutional Law No. 87/1997 of Aug. 13, 1997.

[69] Article 129c, paragraph (4), as amended by Federal Constitutional Law No. 148/1999 of Aug. 13, 1999.

[70] Article 131, paragraph (3), as amended by Federal Constitutional Law Nos. 87/1997 of Aug. 13, 1997 and 99/2002 of June 28, 2002.

[71] Article 134, paragraph (3), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[72] Article 137, as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[73] Article 139, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[74] Article 139, paragraph (4), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[75] Article 139, paragraph (5), as amended by Federal Constitutional Law No. 659/1996 of Nov. 23, 1996 and Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[76] Article 139a, as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[77\]](#) Article 140, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[78\]](#) Article 140, paragraph (4), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[79\]](#) Article 140, paragraph (5), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[80\]](#) Article 140a, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[81\]](#) Article 140a, paragraph (2), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[82\]](#) Article 142, paragraph (2)(i), as inserted by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[83\]](#) Article 144, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[84\]](#) Article 144, paragraph (3), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[\[85\]](#) Article 146, paragraph (1), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[86\]](#) Article 147, paragraph (2), as amended by Federal Constitutional Laws Nos. 64/1997, 8/1999 of Jan. 8, 1999, and 121/2001 of Nov. 16, 2001.

[\[87\]](#) Article 147, paragraph (3), as amended by Federal Constitutional Law 100/2003 of Nov. 21, 2003.

[\[88\]](#) Article 147, paragraph (6), as amended by Federal Constitutional Law No. 148/1999 of Aug. 13, 1999.

[\[89\]](#) Article 148d, as amended by Federal Constitutional Law No. 87/1997 of Aug. 13, 1997.

[\[90\]](#) Article 149, paragraph (1), as amended by Federal Constitutional Law No. 8/1999 of Jan. 8, 1999.

[\[91\]](#) Article 151, paragraph (1), as amended by Federal Constitutional Law No. 565/1991.

[\[92\]](#) Article 151, paragraph (2), as amended by Federal Constitutional Law No. 565/1991.

[\[93\]](#) Article 151, paragraph (3), as amended by Federal Constitutional Law No. 8/1999.

[\[94\]](#) Article 151, paragraph (4), as amended by Federal Constitutional Law No. 470/1992.

[\[95\]](#) Article 151, paragraph (5), as amended by Federal Constitutional Law No. 2/1997.

[\[96\]](#) Article 151, paragraph (6)1-2, as amended by Federal Constitutional Law No. 508/1993.

[\[97\]](#) Article 151, paragraph (6)3, as amended by Federal Constitutional Law No. 114/2000 of Nov. 24, 2000.

[\[98\]](#) Article 151, paragraph (7), as amended by Federal Constitutional Law No. 114/2000 of Nov. 24, 2000; Federal Constitutional Law No. 100/2003; and Federal Constitutional Law No. 153/2004 of December 30, 2004.

[\[99\]](#) Article 151, paragraph (7a), as amended by Federal Constitutional Law No. 2/1997.

[\[100\]](#) Article 151, paragraph (11a), as amended by Federal Constitutional Law No. 1013/1994 & No. 8/1999.

[\[101\]](#) Article 151, paragraph (12), as amended by Federal Constitutional Law No. 392/1996.

[\[102\]](#) Article 151, paragraph (13), as amended by Federal Constitutional Law No. 437/1996.

[\[103\]](#) Article 151, paragraph (14), as amended by Federal Constitutional Law No. 659/1996.

[\[104\]](#) Article 151, paragraph (15), as amended by Federal Constitutional Law No. 2/1997.

[\[105\]](#) Article 151, paragraph (16), as amended by Federal Constitutional Law No. 64/1997.

[\[106\]](#) Article 151, paragraph (17), as amended by Federal Constitutional Law No. 87/1997.

[\[107\]](#) Article 151, paragraph (18), as amended by Federal Constitutional Law No. 30/1998.

[\[108\]](#) Article 151, paragraph (19), as amended by Federal Constitutional Law No. 83/1998.

[\[109\]](#) Article 151, paragraph (20), as amended by Federal Constitutional Law No. 8/1999.

[\[110\]](#) Article 151, paragraph (21), as amended by Federal Constitutional Law No. 8/1999.

[\[111\]](#) Article 151, paragraph (22), as amended by Federal Constitutional Law No. 8/1999.

[\[112\]](#) Article 151, paragraph (23), as amended by Federal Constitutional Law No. 148/1999.

[\[113\]](#) Article 151, paragraph (24), as amended by Federal Constitutional Law No. 68/2000.

[\[114\]](#) Article 151, paragraph (25), as amended by Federal Constitutional Law Nos. 114/2000 of Nov. 24, 2000 and 121/2001 of Nov. 16, 2001.

[\[115\]](#) Article 151, paragraph (26), as amended by Federal Constitutional Law No. 121/2001 of Nov. 16, 2001.

[\[116\]](#) Article 151, paragraph (27), as amended by Federal Constitutional Law No. 99/2002 of June 28, 2002.

[\[117\]](#) Article 151, paragraph (28), as amended by Federal Constitutional Law No. 90/2003 October 28, 2003.

[\[118\]](#) Article 151, paragraph (29), as amended by Federal Constitutional Law No. 100/2003 of Nov. 21, 2003.

[\[119\]](#) Article 151, paragraph (30), as amended by Federal Constitutional Law No. 153/2004 of September 28, 2004.

[\[120\]](#) Article 151, paragraph (31), as amended by Federal Constitutional Law No. 153/2004 of December 30, 2004.

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