

AUSRIA CONSTITUTION

Chapter I. General Provisions

Article 1 Republic, Democracy

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

Article 2 Federal State

(1) Austria is a federal state.

(2) The Federal State is composed of the autonomous States of Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tirol, Vorarlberg, and Vienna.

Article 3 Territory

(1) The federal territory comprises the territories of the Federal States.

(2) A change in the federal territory, which is at the same time a change in State territory, just as the change of a State boundary within federal territory, can, apart from peace treaties, only be effected by corresponding constitutional laws of the Federation and the State whose territory undergoes change.

Article 4 Currency, Customs

(1) The federal territory constitutes a uniform currency, economic, and customs area.

(2) Intermediate customs barriers or other traffic restrictions may not be established within federal territory.

Article 5 Capital

(1) The federal capital and seat of the highest federal authorities is Vienna.

(2) For the duration of extraordinary circumstances the Federal President can, at the request of the Federal Government, remove the seat of the highest federal authorities elsewhere in federal territory.

Article 6 {...}

Article 7 Equality, Political Rights

- (1) All federal nationals are equal before the law. Privileges based upon birth, sex, estate, class, or religion are excluded.
- (2) Public employees, including members of the Federal Army, are guaranteed the unrestricted exercise of their political rights.

Article 8 Official Language

German is the official language of the Republic without prejudice to the rights provided by federal law for linguistic minorities.

Article 8a State Colors, Flag, Coat of Arms, Seal

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

Article 9 International Law, Transfer of Powers

- (1) The generally recognized rules of international law are regarded as integral parts of federal law.
- (2) Legislation or a treaty requiring sanction in accordance with Article 50 (1) can transfer specific federal competencies to intergovernmental organizations and their authorities and can within the framework of international law regulate the activity of foreign states' agents inside Austria as well as the activity of Austrian agents abroad.

Article 9a Defence, Military Service

- (1) Austria subscribes to universal national defence. Its task is to preserve the federal territory's outside independence as well as its inviolability and its unity, especially as regards the maintenance and defence of permanent

neutrality. In this connection, too, the constitutional establishments and their capacity to function as well as the democratic freedoms of residents require to be safeguarded and defended against acts of armed attack from outside.

(2) Universal national defence comprises military, intellectual, civil, and economic national defence.

(3) Every male Austrian national is liable for military service. Conscientious objectors who refuse the fulfillment of compulsory military service and are exonerated therefrom must perform an alternative service. The details are settled by law.

Article 10 Federal Legislation and Execution

(1) The Federation has powers of legislation and execution in the following matters:

1. the Federal Constitution, in particular elections to the House of Representatives, and referenda as provided by the Federal Constitution; the Constitutional Court;

2. external affairs, including political and economic representation with regard to other countries and in particular the conclusion of international treaties of all kinds, demarcation of frontiers; trade in goods and livestock with other countries; customs;

3. regulation and control of entry into and exit from the federal territory; immigration and emigration; passports; deportation, turning back at the frontier, expulsion, and extradition from or through the federal territory;

4. federal finances, in particular taxes to be collected exclusively or in part on behalf of the Federation; monopolies;

5. the monetary, credit, stock exchange and banking system; the weights and measures, standards, and hallmark system;

6. civil law, including the rules relating to economic association, but excluding regulations which render real property transactions with aliens subject to restrictions by the administrative authorities; criminal law, excluding administrative penal law and administrative penal procedure in matters which fall within the autonomous sphere of competence of the States; administration of justice; establishments, such as compulsory labor and similar institutions, for the protection of society against criminal, degenerate or otherwise dangerous elements; the Administrative Court;

copyright; Press affairs; expropriation for the purposes of urban and rural reclamation, reconditioning, restoration; expropriation in so far as it does not concern matters falling within the autonomous sphere of competence of the States, matters of notaries, lawyers, and related professions;

7. the maintenance of peace, order and security, excluding the local public safety administration; the right of association and assembly; matters of personal status, including the registration of births, marriages and deaths, and change of name; aliens police and residence registration; matters of weapons, ammunition and explosives, and the use of fire-arms;

8. matters of trade and industry; public advertising and commercial brokerage; restraint of unfair competition; patent matters and the protection of designs, trade marks, and other commodity descriptions; matters of patent agents; matters of civil engineering; chambers of commerce, trade, and industry; establishment of professional associations in so far as they extend to the federal territory as a whole, but with the exception of those in the field of agriculture and forestry;

9. the traffic system relating to the railways, aviation, and shipping in so far as the last of these does not fall under Article 11 motor traffic; matters, with exception of the highway police, which concern roads declared by federal law as federal highways on account of their importance for transit traffic; river and navigation police in so far as these do not fall under Article 11; the postal, telegraph, and telephone system;

10. mining; forestry, including timber flotage; water rights; control and conservation of waters for the safe diversion of floods or for shipping and raft transport; regulation of torrents; construction and maintenance of waterways regulation and standardization of electrical plants and establishments as well as safety measures in this field; provisions of electric power transmission in so far as the transmission extends over two or more States, matters of steam- and other power-driven engines; surveying;

11. labor legislation in so far as it does not fall under Article 12; social and contractual insurance; chambers for workers and salaried employees with the exception of those relating to agriculture and forestry;

12. public health with the exception of burial and disposal of the dead and community sanitation and first aid services, but only sanitary supervision with respect to hospitals, nursing homes, health resorts and natural curative resources; measures to counter factors hazardous to the environment through the transcendence of input limits, veterinary affairs; nutrition affairs, including foodstuffs inspection;

13. archive and library services for the sciences and specialist purposes; matters of federal collections and establishments serving the arts and sciences, all matters of the federal theaters not however including the settlement of their structural alignment and level nor the treatment accorded by the official building authorities to constructions which concern surface elements in such edifices; the preservation of monuments; religious affairs; census as well as, allowing for the rights of the States to engage within their own territory in every kind of statistical activity, other statistics in so far as they do not serve the interests of one State only; endowments and foundations when their purposes extend beyond a single State's sphere of interests and they have hitherto not been autonomously administered by the States;

14. organization and conduct of the federal police and the federal gendarmerie; settlement of the conditions of establishment and organization of other protective forces, including their armament and the right to make use of their weapons;

15. military affairs; matters of war damage and welfare measures for combatants and their surviving dependents; care of war graves; whatever measures seem necessary by reason or in consequence of war to ensure the uniform conduct of economic affairs, in particular with regard to the population's supply with essentials;

16. the establishment of federal authorities and other federal agencies; service code for and staff representation rights of federal employees; and

17. population policy in so far as it concerns the grant of children's allowances and the organization of burden equalization on behalf of families.

(2) In federal laws on the right of succession to undivided farm estate as well as in federal laws promulgated in accordance with Paragraph (1) no.10, State legislatures can be empowered to issue implementing provisions with respect to individual provisions which must be specifically designated. The provisions of Article 15 (6) shall be analogously applied to these State laws. Execution of the implementing laws issued in such cases lies with the Federation, but the enabling ordinances, in so far as they relate to the implementing provisions of the State law, need foregoing agreement with the State government concerned.

(3) The Federation must allow the States opportunity to present their views before its conclusion of treaties which within the meaning of Article 1 render necessary enabling measures or affect the autonomous sphere of competence of the States in another way.

Article 11 Federal Legislation and State Execution

(1) In the following matters legislation is the business of the Federation, execution that of the States:

1. nationality and right of citizenship;
2. professional associations in so far as they do not fall under Article 10, but with the exception of those in the field of agriculture and forestry;
3. national housing affairs;
4. highway police;
5. sanitation; and
6. inland shipping as regards shipping licenses, shipping facilities and compulsory measures of such facilities in so far as it does not apply to the Danube, Lake Constance, Lake Neusiedl, and boundary stretches of other frontier waters.

(2) In so far as a need for the issue of uniform regulations is considered to exist, the administrative procedure the general provisions of administrative penal law, the administrative penal procedure and the administrative execution also in matters where legislation lies with the States in particular also in matters of taxation, are prescribed by federal law; divergent regulations can be made in Federal or State laws settling the individual spheres of administration only when they are requisite for regularization of the matter in hand.

(3) Enabling ordinances to the federal laws promulgated in accordance with Paragraphs (1) and (2) shall be issued, save as otherwise provided in these laws, by the Federation. The manner of publication for enabling ordinances whose issue by the States in matters concerning Paragraph (1) no.4 and 6 is empowered by federal law can be prescribed by federal law.

(4) The application of the laws promulgated pursuant to Paragraph (2) and the enabling ordinances issued hereto lies with the Federation or the States, depending on whether the business which forms the subject of the procedure is a matter for execution by the Federation or the States.

(5) In proceedings before the administrative authorities the final decision on administrative contraventions lies with administrative penal tribunals to be constituted within the framework of the competent authorities. The members of

these tribunals are independent in the exercise of their office and not bound by any instructions. The senior official of the authority concerned or a deputy delegated by him, who must have legal training, presides. The Federation appoints two members also in cases where the tribunals have not been constituted within the framework of the federal authorities. Acting on applications from the administrative penal tribunals, the State-Governors are competent to exercise the right of pardon provided for by law where penal administrative business arises under the indirect federal administration, the State Governments in matters of the autonomous sphere of competence of the States. Details regarding the establishment of administrative penal tribunals and their activity will be prescribed by federal law.

Article 12 Federal Framework Legislation

(1) In the following matters, framework legislation is the business of the Federation, the issue of implementing laws and execution the business of the States:

1. social welfare; population policy in so far as it does not fall under Article 10; public social and welfare establishments; maternity, infant, and adolescent welfare; hospitals and nursing homes; requirements to be imposed for health reasons on health resorts, sanatoria, and health establishments; natural curative resources;
2. public institutions for the adjustment of disputes out of court;
3. land reform, in particular land consolidation measures and resettlement;
4. the protection of plants against diseases and pests;
5. matters of electric power in so far as they do not fall under Art. 10; and
6. labor legislation and the protection of workers and employees in so far as it is a matter of workers and employees engaged in agriculture and forestry.

(2) In matters of land reform the final decision and that at State level lies with tribunals composed of a chairman and judges, administrative officials, and experts the tribunal qualified to pronounce final judgment will be appointed within the framework of the competent Federal Ministry. The organization, the duties and the procedure of the tribunals as well as the principles for the organization of other authorities concerned with matters of land reform will be prescribed by federal law. This shall provide that the decisions by the tribunals are not subject to repeal and change by way of administrative ruling; the exclusion of ordinary appeal from the authority of first instance to the State jurisdiction is inadmissible.

(3) If and inasmuch as the rulings of State authorities in matters of electric power deviate from one another or a State Government was the sole competent State authority, the competence in such a matter passes, provided a party so demands within the deadline to be fixed by federal law, to the Federal Ministry competent in the business. As soon as the Ministry has reached a decision, the rulings hitherto made by the State authorities are invalidated.

Article 13 Taxation

The competencies of the Federation and the States in the field of taxation will be prescribed in a special federal constitutional law.

Article 14 Education

(1) Save as provided otherwise in the following paragraphs, legislation and execution in the field of schooling and in the field of education in matters of pupil and student hostels are the business of the Federation. The matters settled in Article 14a do not belong to schooling and education within the meaning of this Article.

(2) Save as provided otherwise by Paragraph (4) (a), legislation is the business of the Federation, execution the business of the States in matters of the service code for and staff representation rights of teachers at public compulsory schools. Such federal laws can empower State legislatures to issue implementing provisions to individual provisions which shall be precisely specified; in these instances the provisions of Article 15 (6) apply analogously. The enabling ordinances in respect of such federal laws, save as provided otherwise herein, shall be issued by the Federation.

(3) In the following matters framework legislation is the business of the Federation, the issue of implementing laws and execution the business of the States:

a) composition and disposition, including their members' appointment and remuneration, of the boards to be constituted in the States and political Districts as part of the federal school authorities;

b) framework organization (structure, organizational forms, establishment, maintenance, dissolution, local districts, sizes of classes and instruction periods) of public compulsory schools;

c) framework organization of publicly maintained student hostels provided exclusively or mainly for pupils of compulsory schools; and

d) professional employment qualifications for kindergarten teachers and educational assistants to be employed by the States, Counties, or County Associations at the centers and student hostels provided exclusively or mainly for pupils of compulsory schools.

(4) In the following matters legislation and execution is the business of the States:

a) competence of officials, on the basis of laws promulgated pursuant to Paragraph (2), to exercise official responsibility over teachers at public compulsory schools; the States laws shall provide that the federal school authorities in the States and political Districts must participate in appointments, other selections for service positions, and awards as well as in eligibility and disciplinary proceedings. The participation in appointments, other selections for service positions, and awards shall at all events comprise a right of nomination on the part of the primary level federal school authority;

b) the kindergarten system and the centers system.

(5) In the following matters legislation and execution are, in deviation from the provisions of Paragraphs (2) to (4), the business of the Federation:

a) public demonstration schools, demonstration kindergartens, demonstration centers, and demonstration student hostels attached to a public school for the purpose of practical instruction as provided by the curriculum;

b) publicly maintained student hostels intended exclusively or mainly for pupils of the demonstration schools mentioned in Sub-Paragraph (a); and

c) the service code for and staff representation rights of teachers, educational assistants, and kindergarten teachers at the public institutions mentioned in Sub-Paragraphs (a) and (b).

(6) Public schools are those schools which are established and maintained by authorities so required by law. The Federation is the authority so required by law in so far as legislation and execution in matters of the establishment, maintenance, and dissolution of public schools are the business of the Federation. The State or, according to the statutory provisions, the County, or a County Association is the authority so required by law in so far as legislation or implementing legislation and execution in matters of establishment, maintenance and dissolution of public schools are the business of the State. Admission to public school is open to all without distinction of birth, sex race, status, class, language and religion, and in other respects

within the limits of the statutory requirements. The same applies analogously to kindergartens, centers, and student hostels.

(7) Private schools are different from public schools; they shall be accorded public status according to the statutory provisions.

(8) The Federation is entitled, in matters which in accordance with Paragraphs (2) and (3) belong to execution by the States, to obtain confirmation about adherence to the laws and ordinances issued on the basis of these paragraphs and can for this purpose delegate officials to the schools and student hostels. Should shortcomings be observed, the State-Governor can be instructed (Article 20 (1)) to redress the shortcomings within an appropriate deadline. The State-Governor must see to the redress of the shortcomings according to the statutory provisions and, to effect the execution of such instructions, is bound also to employ the means at his disposal in his capacity as an authority acting on behalf of the State in its autonomous sphere of competence.

(9) The general rules in Articles 10 and 21 as to the distribution of competencies for legislation and execution regarding conditions of service with the Federation, the States, the Counties, and the County Associations apply in respect of the service code for teachers, educational assistants, and kindergarten teachers, save as provided otherwise by the preceding paragraphs. The same applies to the staff representation rights of teachers, educational assistants, and kindergarten teachers.

(10) In matters of the school authorities of the Federation in the States and political Districts, compulsory schooling, school organization, private schools, and the relationship between school and the Churches including religious instruction at school, the House of Representatives, in so far as matters of universities and fine arts academies are not concerned, can adopt federal legislation only in the presence of at least half the members and by a two thirds majority of the votes cast. The same applies to the ratification of treaties negotiated on these matters and which fall into the category specified in Article 50.

Article 14a State Legislation and Execution, Exceptions

(1) Save as provided otherwise in the following paragraphs, legislation and execution are the business of the States with regard to agricultural and forestry schooling as well as with regard to agricultural and forestry education in matters of student hostels, and in matters of the service code for and staff representation rights of teachers and educational assistants at the schools and student hostels falling under this Article. Matters of university training do not fall under agricultural and forestry schooling.

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

- a) secondary agricultural and forestry schools and schools for the training and supplementary training of teachers at agricultural and forestry schools;
- b) technical colleges for the training of forestry employees;
- c) public agricultural and forestry technical colleges linked organizationally with one of the public schools mentioned in Sub-Paragraphs (a) and (b) or with a federal agricultural and forestry research institute to ensure provision of the demonstrations scheduled in the curricula;
- d) student hostels exclusively or mainly designated for pupils of the schools mentioned in Sub-Paragraphs (a) to (c);
- e) service code for and staff representational rights of the teachers and educational assistants in the establishments mentioned in Sub-Paragraphs (a) to (d) above;
- f) subsidies for staff expenditure of the denominational agricultural and forestry schools; and
- g) federal agricultural and forestry institutes linked organizationally with an agricultural and forestry school supported by the Federation to ensure provision of the demonstrations scheduled in the curricula of these schools.

(3) Save as it concerns matters mentioned in Paragraph (2), legislation is the business of the Federation, execution the business of the States in matters of

- a) religious instruction and
- b) the service code for and staff representation rights of teachers at public agricultural and forestry vocational schools and technical colleges and of educational assistants at publicly maintained student hostels exclusively or mainly designated for pupils of these schools, excepting however matters of official competence for the exercise of the service prerogative over these teachers and educational assistants. State legislatures can be authorized in federal laws promulgated by reason of the provisions under Sub-Paragraph (b) to issue implementing provisions for individual regulations which shall be precisely specified, in this connection the provisions of Article 15 (6) apply analogously. Enabling ordinances for the federal laws shall, save as otherwise provided there, be issued by the Federation.

(4) Framework legislation is the business of the Federation, the issue of implementing laws and execution is the business of the States:

a) as regards the agricultural and forestry vocational schools in matters of definitions of the instructional objective, the obligatory subjects, and free tuition as well as in matters of compulsory schooling and the transfer from the school in one State to the school in another State;

b) as regards the agricultural and forestry technical colleges in matters of the definition of admission prerequisites, instructional objective, organizational forms, extent of the teaching and obligatory subjects, free tuition, and the transfer from the school in one State to the school in another State;

c) in matters of the public status of private agricultural and forestry vocational schools and training colleges with the exception of schools falling under para. 2 sub-para. b above; and

d) as regards the organization and competence of advisory boards who in the matters of Paragraph (1) participate in the execution by the States.

(5) The establishment of the agricultural and forestry technical colleges and research institutes specified under Paragraph (2) (c) and (g) is only admissible if the State government of the State in which the vocational school or technical college is to have its location has agreed to the establishment. This agreement is not requisite if the establishment concerns an agricultural and forestry school which is to be organizationally linked to a school for the training and supplementary training of teachers and agricultural and forestry schools to ensure provision of the demonstrations scheduled in their curricula.

(6) It lies within the competence of the Federation to see to the observance of the regulations issued by it in matters whose execution in accordance with Paragraphs (3) and (4) belongs to the States.

(7) The provisions of Article 14 (6), (7), and (9) analogously also apply for the spheres specified in the first sentence of Paragraph (1).

(8) federal laws on matters pursuant to Paragraph (4) can be passed by the House of Representatives only in the presence of at least half the members and by a two thirds majority of the votes cast.

Article 15 General Competence of the States

(1) In so far as a matter is not expressly assigned by the Federal

Constitution to the Federation for legislation or also execution, it remains within the States' autonomous sphere of competence.

(2) In matters of local public safety administration, i.e., that part of public safety administration which exclusively or preponderantly affects the interests of the local community personified by the County and which, like preservation of public decency and defence against the improper creation of noise, can suitably be undertaken by the community within its local boundaries, the Federation has authority to supervise the conduct of these matters by the County and to redress any observed shortcomings by instructions to the State-Governor. Inspectoral authorities of the Federation can for this purpose be delegated to the County; in each and every case the State-Governor shall be informed hereof.

(3) The provisions of States legislation in matters of theaters and cinemas, public shows, performances, and entertainments shall assign to the federal public safety administration within its local sphere of competence at least the superintendence of the events, in so far as this does not extend to technical operation, building police, and fire police considerations, and the participation by the administration in the initial stage of grant of licenses as stipulated by such legislation.

(4) To what extent the federal public safety administration shall within its local sphere of competence be assigned executive responsibility in the domain of the highway police, except the local traffic police (Article 118 (4) no.4) and the river and navigation police on the Danube, Lake Constance, Lake Neusiedl, and boundary stretches of other frontier waters, shall be prescribed in corresponding laws of the Federation and the State concerned.

(5) In so far as executive acts in building matters concern federally owned buildings which serve public purposes, like accommodation for federal authorities and offices or public institutions including schools and hospitals or barracks quarters for members of the Army or other federal employees, these executive acts fall under the indirect federal administration; the final decision on appeals rests with the State-Governor. Nevertheless determination of alignment and level in these cases too falls under the executive power of the States.

(6) In so far as framework legislation has been reserved to the Federation, detailed implementation within the framework laid down by federal law is incumbent on State legislatures. The federal law can fix for the issue of the implementing legislation a deadline which may not without the consent of the Senate, be shorter than six months and not longer than one year. If a State does not observe this deadline, competence for the issue of the implementing

legislation passes from that State to the Federation. As soon as the State has issued the implementing legislation the federal implementing legislation becomes invalidated. If the Federation has not established any framework, State legislation is free to settle such matters. As soon as the Federation has established a framework, the provisions of State legislation shall within the deadline to be appointed by federal law be adjusted to the framework legislation.

(7) If an executive act on the part of one State in matters covered by Articles 11, 12, 14 (2) and (3), and 14a (3) and (4) is to be effective in several States, the participant States shall take the lead in reaching an agreed basis. If within six months from the legal business arising no agreed ruling has been laid down, the competence for such an act passes, upon request by one of the States or one of the parties participating in the matter, to the competent Federal Ministry. The details can be settled by federal laws promulgated under Articles 11, 12, 14 (2) and (3), and 14a (3) and (4).

(8) In matters reserved to federal legislation in conformity with Articles 11 and 12, the Federation is entitled to control the observance of the regulations it has issued.

(9) States are competent within the scope of their legislation to make likewise in the field of civil and criminal law the provisions necessary to dispose of an item.

(10) State legislation which alters or settles along the lines the existent organization of the ordinary public administration in the States, may only be promulgated with the consent of the Federal Government.

Article 15a Agreements Between Federation and States

(1) Federation and States can make agreements among themselves about matters within their respective sphere of competence. The conclusion of such agreements in the name of the Federation is, depending on the subject, incumbent on the Federal Government or Federal Minister. Agreements which are to be binding also on the authorities of the federal legislature can be concluded by the Federal Government only with the approval of the House of Representatives. Article 50 (3) shall by analogy be applied to such resolutions of the House of Representatives; they shall be published in the federal law Gazette.

(2) Agreements between the States can only be made about matters of their autonomous sphere of competence and must without delay be brought to the Federal Government's knowledge.

(3) The principles of international law concerning treaties shall apply to agreements within the meaning of Paragraph (1). The same applies for agreements within the meaning of Paragraph (2), save as provided otherwise by corresponding constitutional laws of the States in question.

Article 16 Implementation of Treaties

(1) The States are bound to take measures which become necessary within their autonomous sphere of competence for the implementation of international treaties; should a State fail to comply punctually with this obligation, competence for such measures, particularly issuing the necessary laws, passes to the Federation. A measure taken by the Federation pursuant to this provision, particularly issuing a law or an ordinance, becomes invalid as soon as the State has taken the requisite action.

(2) Likewise, in the implementation of treaties with foreign states, the Federation has the right of supervision in matters which belong to the autonomous sphere of competence of the States. In such case the Federation has the same rights with respect to the States as in matters of the indirect federal administration (Article 102).

Article 17 Competences Not Restricting Civil Rights

(1) The provisions of Articles 10 to 15 with regard to competence of legislation and execution in no way affects the position of the Federation as the holder of civil rights.

(2) The Federation can in all these legal relations never be placed by State legislation in a position less favorable than that of the State concerned.

Article 18 Rule of Law

(1) The entire public administration shall be based on law.

(2) Every administrative authority can on the basis of law issue ordinances within its sphere of competence.

(3) If the immediate issue of measures, which require in accordance with the Constitution a resolution by the House of Representatives, becomes necessary to prevent obvious and irreparable damage to the community at a time when the House of Representatives is not assembled, cannot meet in time, or is impeded from action by circumstances beyond its control, the Federal President can at the recommendation of the Federal Government and on his and their responsibility take these measures by way of provisional law-amending

ordinances. The Federal Government must present its recommendation with the consent of the Standing Sub-Committee to be appointed by the Main Committee of the House of Representatives (Article 55 (2)). Such an ordinance requires the countersignature of the Federal Government.

(4) Every ordinance issued in accordance with Paragraph (3) shall without delay be submitted by the Federal Government to the House of Representatives which if it is not in session at this time shall be convened by the Federal President, but if it is in session by the President of the House of Representatives, on one of the eight days following its submission. Within four weeks of the submission, the House of Representatives must either vote a corresponding federal law in place of the ordinance or pass a resolution demanding that the ordinance immediately become invalidated. In the latter case the Federal Government must immediately meet this demand. In order that the resolution of the House of Representatives may be adopted in time, the President shall at the latest submit the motion to the vote on the last day but one before expiry of the four weeks deadline; detailed provisions shall be made in the Standing Orders.

(5) The ordinances specified in Paragraph (3) may not contain an amendment to provisions of federal constitutional law and may have for their subject neither a permanent financial burden on the Federation nor a financial burden on the States, Districts, or Counties nor financial commitments for federal citizens nor an alienation of state property nor measures of matters specified in Article 10 (1) no.11 nor, finally, such as concern the right of collective association or rent protection.

Article 19 Governmental Power, Incompatibility

(1) The highest executive authorities are the Federal President, the Federal Ministers and the Secretaries of State, and the members of the State Governments.

(2) The admissibility of activities in the private sector of the economy by the authorities specified in Paragraph (1) and other public functionaries can be restricted by federal law.

Article 20 Administration

(1) Under the direction of the highest authorities of the Federation and the States elected temporary functionaries or permanent appointees conduct the administration in accordance with the provisions of the laws. They are, except for differing regulations by Constitutional laws, bound by the instructions of their superiors and responsible to these for the exercise of their office. The subordinate officer can refuse compliance with an instruction if the

instruction was given by an authority not competent in the matter or compliance would infringe the criminal code.

(2) If Federal or State law has appointed for decision in the last instance a tribunal whose rulings are, according to the provisions of the law, not subject to rescission or alteration through administrative authorities and whose membership includes at least one judge, the other members of this tribunal are likewise bound by no instructions in the exercise of their office.

(3) All functionaries entrusted with administrative duties of Federation, States, and Counties are, except for differing regulations by law, pledged to secrecy about all facts of which they have obtained knowledge exclusively from their official activity and whose concealment is enjoined by the public interest or that of the parties concerned. Official secrecy does not exist for functionaries appointed by a popular representative body if it expressly asks for such information.

Article 21 Service Code

(1) Legislation and execution in matters of the service code for and staff representation rights of employees of the States, the Counties, and the County Associations are, save as provided otherwise, in all matters in Paragraph (2) and Article 14 (2) and (3) (d), incumbent on the States. The laws and ordinances issued by the States in matters of the service code may not differ in such degree from the laws and ordinances of the Federation relating to the service code as substantially to impede the alternation of service stipulated pursuant to Paragraph (4).

(2) The State laws promulgated in accordance with Paragraph (1) in the field of service contract regulations may only contain provisions dealing with establishment and severance of the employment relationship and the rights and duties arising therefrom. Legislation and execution in matters of employee protection for functionaries (Paragraph (1)) and to staff representation of States functionaries, in so far as they are not engaged in public enterprises, are incumbent on the States. In so far as in accordance with this paragraph the States are not competent, the aforementioned matters fall within the competence of the Federation.

(3) The service prerogative with regard to employees of the Federation is exercised by the highest authorities of the Federation, the service prerogative with regard to employees of the States by the highest authorities of the States. The service prerogative with regard to the employees of the Auditing Board is exercised on behalf of the Federation by the president of

the Auditing Board.

(4) The possibility of an alternation of service between the Federation, the States, the Counties, and the County Associations pertains guaranteed at all times to public employees. The alternation of service will take place with the agreement of the authorities competent to exercise the service prerogative. Special arrangements to facilitate the alternation of service can be made by federal law.

(5) Official titles for the functionaries of the Federation, the States, the Counties, and the County Associations can be laid down by federal law in a standardized form. Their use is safeguarded by law.

Article 22 Mutual Assistance

All authorities of the Federation, the States, and the Counties are bound within the framework of their legal sphere of competence to render each other mutual assistance.

Article 23 State Liability

(1) The Federation, the States, the Districts, the Counties, and the other bodies and institutions established under public law are liable for the injury which persons acting on their behalf in execution of the laws have by illegal behavior culpably inflicted on whomsoever.

(2) Persons acting on behalf of one of the legal entities specified in Paragraph (1) are liable to it, in so far as intent or gross negligence can be laid to their charge, for the injury for which the legal entity has indemnified the injured party.

(3) Persons acting on behalf of one of the legal entities specified in Paragraph (1) are liable for the injury which in execution of the laws they have by illegal behavior inflicted directly on the legal entity.

(4) The detailed provisions with respect to Paragraphs (1) to (3) will be established by federal law.

(5) A federal law can also provide to what extent special provisions deviating from the principles laid down in Paragraph (1) to (3) above apply in the field of the postal, telegraph, and telephone system.

Chapter II Federal Legislation

Part A The House of Representatives

Article 24 Legislative Power

The legislative power of the Federation is exercised by the House of Representatives jointly with the Senate.

Article 25 Seat

- (1) The seat of the House of Representatives is Vienna, the federal capital.
- (2) For the duration of extraordinary circumstances, the Federal President can at the request of the Federal Government convoke the House of Representatives elsewhere within federal territory.

Article 26 Election

- (1) The House of Representatives is elected by the nation in accordance with the principles of proportional representation on the basis of equal, direct, secret, and personal suffrage for men and women who have completed their nineteenth year of life on a day appointed prior to the election. Voting is compulsory in the Federal States where this has been enacted by State law. Detailed provisions about the electoral procedure and compulsory voting, if necessary, will be made by federal law. This federal law shall in particular lay down the reasons held to excuse non-participation in the election notwithstanding compulsory voting.
- (2) The federal territory will be divided into self-contained constituencies whose boundaries may not overlap States boundaries. The number of deputies shall be divided among the qualified voters of a constituency in proportion to the number of nationals in the constituencies, i.e., the number of federal nationals who in accordance with the result of the last census had their domicile in the constituencies. A division of the electorate into other electoral bodies is not admissible.
- (3) The day of the poll must be a Sunday or other public holiday.
- (4) Eligible for election is every qualified voter who has completed his/her twenty first year of life before the day appointed prior to the election.
- (5) Exclusion from the right to vote and from eligibility can only ensue from a sentence or order by the courts.
- (6) Electoral boards shall be appointed for the implementation and conduct of elections to the House of Representatives, the election of the Federal President, and referenda in accordance with Article 46 as well as for

assistance in the scrutiny of initiatives. Their members, with voting rights, shall include representatives from the participant political parties. The main electoral board shall include members who belong or have belonged to the judiciary. The electoral regulations shall lay down, notwithstanding members originating from the professional judiciary, number of members to be allocated to the participant political parties in accordance with their strength as ascertained at the last House of Representatives election.

(7) The electoral register will be drawn up by the Counties as part of their assigned sphere of competence.

Article 27 Term

(1) The legislative period of the House of Representatives lasts four years, calculated from the day of its first meeting but in any case until the day on which the new House of Representatives meets.

(2) The newly elected House of Representatives shall be convened by the Federal President within thirty days after the election. The latter shall be so arranged by the Federal Government as to enable the newly elected House of Representatives to meet on the day after the expiry of the fourth year of the legislative period.

Article 28 Sessions

(1) The Federal President convokes the House of Representatives each year for an ordinary session which shall not begin before 15 Sep and not last longer than 15 July the following year.

(2) The Federal President can also convoke the House of Representatives for extraordinary sessions. If the Federal Government or at least one third of the members of the House of Representatives or if the Senate so demands, the Federal President is bound to convoke the House of Representatives for an extraordinary session to meet within two weeks of the demand; the convocation needs no countersignature. A request by members of the House of Representatives or by the Senate does not require a recommendation by the Federal Government.

(3) The Federal President declares sessions of the House of Representatives closed in pursuance of a vote by the House of Representatives.

(4) Upon the opening of a new House of Representatives session within the same legislative period work will be continued in accordance with the stage reached at the close of the last session. At the end of a session individual

committees can be instructed by the House of Representatives to continue their work.

(5) During a session the President of the House of Representatives convokes the individual sittings. If within a session at least a quarter of the House of Representatives' members or the Federal Government so demands, the President is bound to convoke a sitting in such manner that the House of Representatives meets within five days of the demand.

(6) The federal law on the House of Representatives' Standing Orders shall lay down special provisions for its convocation in the event of the elected Presidents being precluded from the performance of their office or being deprived of their functions.

Article 29 Dissolution

(1) The Federal President can dissolve the House of Representatives, but he may avail himself of this prerogative only once for the same reason. In such case the new election shall be so arranged by the Federal Government that the newly elected House of Representatives can at the latest meet on the hundredth day after the dissolution.

(2) Before expiry of a legislative period the House of Representatives can vote its own dissolution by simple law.

(3) After a dissolution pursuant to Paragraph (2) as well as after expiry of the period for which the House of Representatives has been elected, the legislative period lasts until the day on which the newly elected House of Representatives meets.

Article 30 Organization

(1) The House of Representatives elects the President, the Second, and Third Presidents from among its members.

(2) The business of the House of Representatives is conducted in pursuance of a special federal law. The federal law on the House of Representatives' Standing Orders can only be passed in the presence of half the members and by a two thirds majority of the votes cast.

(3) The Parliamentary Staff, which is subordinate to the President of the House of Representatives, is competent for the conduct of Parliamentary auxiliary services and administrative matters within the scope of the federal legislature. The internal organization of the Parliamentary Staff for matters of the Senate shall be settled in agreement with the Chairman of the Senate

who is likewise invested with authority to issue instructions as to implementation of the functions assigned to the Senate on the basis of this law.

(4) The nomination of Parliamentary Staff employees and all other competencies in personnel matters lie with the President of the House of Representatives.

(5) The President of the House of Representatives can delegate parliamentary Staff employees to parliamentary parties for help in the fulfillment of parliamentary duties.

(6) The President of the House of Representatives is the highest administrative authority in the execution of the administrative matters for which he is, according to this Article, competent and he exercises these powers in his own right. He may issue ordinances inasmuch as these exclusively concern administrative matters regulated by this Article.

Article 31 Majority

Save as otherwise provided in this law or as otherwise laid down in the federal law on the House of Representatives' Standing Orders with regard to individual matters, the presence of at least one third of the members and an absolute majority of the votes cast is requisite to a vote by the House of Representatives.

Article 32 Publicity

(1) The sessions of the House of Representatives are public.

(2) The public shall be excluded if the chairman or one fifth of the members present so demand and the House of Representatives votes this after the withdrawal of the audience.

Article 33 Publications

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

Part B The Senate

Article 34 Representation

(1) Pursuant, to the following provisions, the States are represented in the Senate in proportion to the number of nationals in each of them.

(2) The State with the largest number of citizens delegates twelve members, every other State as many as the ratio in which its nationals stand to those in the first-mentioned State, with remainders which exceed half the coefficient counting as full. However, every State is entitled to a representation of at least three members. A substitute will be appointed for each member.

(3) The number of members to be delegated by each State accordingly will be re-calculated after every general census by the Federal President.

Article 35 Election

(1) The members of the Senate and their substitutes are elected by the State Parliaments for the duration of their respective legislative periods in accordance with the principle of proportional representation, but at least one seat must fall to the party having the second largest number of seats in a State Parliament or, should several parties have the same number of seats, the second highest number of votes at the last election to the State Parliament. When the claims of several parties are equal, the issue shall be decided by lot.

(2) The members of the Senate need not belong to the State Parliament which delegates them, but they must be eligible for that State Parliament.

(3) After expiry of the legislative period of a State Parliament or after its dissolution, the members delegated by it to the Senate remain in office until such time as the new State Parliament has held the election to the Senate.

(4) The provisions of Articles 34 and 35 can only be amended, apart from the majority of votes requisite in general to the adoption of a resolution there, if in the Senate the majority of the representatives from at least four States has approved the amendment.

Article 36 Chairman, Convocation

(1) The States succeed each other in alphabetical order every six months in the chairmanship of the Senate.

(2) The representative who heads the delegation of the State entitled to the chairmanship acts as Chairman; the appointment of the Deputy Chairmen will be prescribed by the Senate's Standing Orders.

(3) The Senate will be convoked by its Chairman at the seat of the House of Representatives. The Chairman is bound immediately to convoke the Senate if at

least one quarter of its members or the Federal Government so demands.

Article 37 Quorum, Majority, Standing Orders, Publicity

(1) Save as provided differently by law, the presence of at least one third of the members and an absolute majority of the votes cast is requisite to a resolution by the Senate.

(2) The Senate furnishes itself with Standing Orders by way of resolution. This resolution can only be adopted in the presence of half the members with a two thirds majority of the votes cast.

(3) The meetings of the Senate are public. The public can, pursuant to the provisions of the Standing Orders, be excluded by resolution. The provisions of Article 33 also apply to public meetings of the Senate and its committees.

Part C The Federal Assembly

Article 38 Functions

The House of Representatives and the Senate meet, together building the Federal Assembly, in public session at the seat of the House of Representatives for the affirmation of the Federal President as well as for the adoption of a resolution on a declaration of war.

Article 39 Chairman

(1) Apart from the cases stated in Articles 60 (6), 63 (2), 64 (4), and 68 (2), the Federal Assembly is convoked by the Federal President. The chairmanship alternates between the President of the House of Representatives and the Chairman of the Senate, beginning with the former.

(2) The House of Representatives' Standing Orders are applied analogously in the Federal Assembly.

(3) The provisions of Article 33 apply for the sessions of the Federal Assembly.

Article 40 Resolutions

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

(2) The resolutions of the Federal Assembly upon a declaration of war shall be

officially published by the Federal Chancellor.

Part D Federal Legislative Procedure

Article 41 Bills

(1) Legislative proposals are submitted to the House of Representatives either as motions by its members or as Federal Government bills. The Senate can propose legislative motions to the House of Representatives by way of the Federal Government.

(2) Every motion proposed by 100,000 voters or by one sixth each of the voters in three States shall be submitted by the main electoral board to the House of Representatives for action. The initiative must be put forward in the form of a draft law.

Article 42 Objection

(1) Every enactment of the House of Representatives shall without delay be conveyed by the President to the Senate.

(2) Save as otherwise provided by constitutional law, an enactment can be authenticated and published only if the Senate has not raised a reasoned objection to this enactment.

(3) This objection must be conveyed to the House of Representatives in writing by the Chairman of the Senate within eight weeks of the enactment's arrival; the Federal Chancellor shall be informed thereof.

(4) If the House of Representatives in the presence of at least half its members once more carries its original resolution, this shall be authenticated and published. If the Senate resolves not to raise any objection or if no reasoned objection is raised within the deadline laid down in Paragraph (3), the enactment shall be authenticated and published.

(5) The Senate can raise no objection to resolutions of the House of Representatives relating to a law on the House of Representatives' Standing Orders, the dissolution of the House of Representatives, the appropriation of the Federal Budget estimates, the sanction of the final Federal Budget, the raising or conversion of federal loans, or the disposal of federal property. These enactments of the House of Representatives shall be authenticated and published without further formalities.

Article 43 Referendum

If the House of Representatives so decides or if the majority of members of the House of Representatives so demands, every enactment of the House of Representatives shall be submitted to a referendum upon conclusion of the procedure pursuant to Article 42 but before its authentication by the Federal President.

Article 44 Constitutional Laws

(1) Constitutional laws or constitutional provisions contained in simple laws can be passed by the House of Representatives only in the presence of at least half the members and by a two thirds majority of the votes cast, they shall be explicitly specified as such.

(2) Any total revision of the Federal Constitution shall upon conclusion of the procedure pursuant to Article 42 but before its authentication by the Federal President be submitted to a referendum by the entire nation, whereas any partial revision requires this only if one third of the members of the House of Representatives or the Senate so demands.

Article 45 Referendum Majority

(1) For a referendum, the absolute majority of the validly cast votes is decisive.

(2) The result of a referendum shall be officially announced.

Article 46 Initiative and Referendum Law

(1) The procedure for an initiative and a referendum will be prescribed by federal law.

(2) Everyone who is eligible for the House of Representatives has the right to vote.

(3) A referendum takes place at the order of the Federal President.

Article 47 Signatures

(1) The constitutional enactment of federal laws is authenticated by the signature of the Federal President.

(2) The submission for authentication is effected by the Federal Chancellor.

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

Article 48 Publication

Federal laws and the treaties specified in Article 50 will be published with reference to their adoption by the House of Representatives; federal laws based upon a referendum with reference to the result of that referendum.

Article 49 Promulgation

(1) Federal laws and the treaties specified in Article 50 shall be published by the Federal Chancellor in the Federal Law Gazette. Unless explicitly provided otherwise, their entry into force begins with expiry of the day on which the number of the Federal Law Gazette containing their publication is issued and distributed and it extends, unless explicitly provided otherwise, to the entire federal territory; this does not apply to treaties which are to be implemented by the issue of laws (Article 50 (2)).

(2) The House of Representatives can on the occasion of giving its sanction to treaties pursuant to Article 50 resolve that a treaty or individual explicitly specified parts of it shall be published not in the federal law Gazette, but in another appropriate manner. Such a resolution by the House of Representatives has to state the manner of publication, which must guarantee the accessibility of the treaty for the duration of its validity, and shall be notified by the Federal Chancellor in the Federal Law Gazette. Unless explicitly provided otherwise, the entry into force of such treaties begins with expiry of the day on which the number of the Federal Law Gazette containing the notification of the resolution by the House of Representatives is issued and distributed and it extends, unless explicitly provided otherwise, to the entire federal territory.

(3) A special federal law on the Federal Law Gazette will be promulgated.

Article 49a Republication

(1) The Federal Chancellor is empowered jointly with the competent Federal Ministers to restate with binding effect federal laws in their valid version by publication in the Federal Law Gazette.

(2) On the occasion of the republication:

1. obsolete terminological expressions can be rectified and outdated spelling assimilated to the new manner of writing;
2. references to other regulations which no longer fit in with current legislation as well as other inconsistencies can be rectified;

3. provisions which have been nullified by later regulations or otherwise rendered void can be declared invalid;
 4. title abridgements and alphabetical abbreviations of titles can be laid down;
 5. the designations of articles, sections, paragraphs, and the like can in case of elimination or insertion be correspondingly altered and in this connection references thereto within the text of the regulation be appropriately rectified; and
 6. interim provisions as well as earlier still applicable versions of the federal law in question can by specification of their purview be recapitulated and simultaneously with the republication be separately issued.
- (3) From the day following issue of the republication all courts and administrative authorities are bound by the restated text of the federal law in respect of facts materializing thereafter.

Part E Participation of the House of Representatives and of the Senate in Execution by the Bund

Article 50 Treaties

- (1) Political treaties, and others in so far as their contents modify or complement existent laws, may only be concluded with the sanction of the House of Representatives.
- (2) At the time of giving its sanction to a treaty which falls under Paragraph (1), the House of Representatives can decide that the treaty in question shall be implemented by the issue of laws.
- (3) The provisions of Article 42 (1) to (4) and, should constitutional law be modified or complemented by the treaty, the provisions of Article 44 (1) apply analogously to resolutions of the House of Representatives in accordance with Paragraphs (1) and (2). In a vote of sanction adopted pursuant to Paragraph (1), such treaties or such provisions as are contained in treaties shall be explicitly specified as "constitutionally modifying".

Article 51 Budget

- (1) At the latest ten weeks before expiry of the fiscal year the Federal Government shall submit to the House of Representatives an estimate of the

revenue and expenditure of the Federation for the ensuing fiscal year. Its contents may not be made public before the beginning of the deliberations in the House of Representatives.

(2) Federal expenditure not earmarked in the Federal Finance Act or by a special law requires before its execution constitutional sanction by the House of Representatives which shall be obtained by the Federal Minister of Finance. Should delay be dangerous, such federal expenditure, in so far as it does not exceed 1,000,000.- Schilling, can be undertaken with the consent of the Main Committee of the House of Representatives; the sanction of the House of Representatives shall subsequently be requested.

(3) If the draft Federal Budget submitted by the Federal Government in due time (Paragraph (1)) to the House of Representatives is not constitutionally sanctioned before expiry of the fiscal year and by that date no temporary provision has been made by federal law, then, during the first two months of the ensuing fiscal year, the taxes, levies, and imposts revenue shall be collected in accordance with the existing regulations and federal expenditure shall be defrayed to the account of the appropriations to be laid down by law, with the exception of expenditure of a kind not specially earmarked in the last Federal Finance Act. The ceiling of the admissible federal expenditure is formed by the expenditure appropriations contained in the draft Federal Budget submitted to the House of Representatives, and one twelfth of these appropriations shall serve as the foundation for each month's expenditure. The expenditure requisite to the fulfillment of legal liabilities shall be defrayed in accordance with maturity. The filling of official appointments likewise ensues on the basis of the draft Federal Finance Act submitted to the House of Representatives. In other respects, the provision of the last Federal Finance Act, in so far as they do not concern figures relating to the administration of public funds remain analogously in force for the above-mentioned two months.

Article 52 Government Interrogation

(1) The House of Representatives and the Senate are entitled to examine the administration of affairs by the Federal Government, to interrogate its members about all subjects of its execution, and to demand all relevant information as well as to ventilate in resolutions their wishes about exercise of the executive power.

(2) Every member of the House of Representatives and the Senate is entitled during the sessions of the House of Representatives and the Senate to address brief oral questions to members of the Federal Government.

(3) The detailed regulations respecting the right of interrogation will be

settled by the federal law on the House of Representatives' Standing Orders as well as in the Senate's Standing Orders.

Article 53 Committees of Inquiry

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

Article 54 Tariffs

The House of Representatives participates in laying down railway fares, postal, telegraph, and phone rates, and the prices for monopoly commodities as well as the payment for persons regularly employed in federal establishments. This participation will be prescribed by federal constitutional law.

Article 55 Main Committee

- (1) The House of Representatives elects its Main Committee from its members in accordance with the principle of proportional representation; it can be laid down by federal law that certain ordinances by the Federal Government or a Federal Minister need the agreement of the Main Committee and that reports by the Federal Government or a Federal Minister shall be rendered to the Main Committee. Should the need arise, the Main Committee shall be convoked between sessions of the House of Representatives (Article >28).
- (2) The Main Committee elects from among its members a Standing Sub-Committee upon which it devolves the powers stipulated by law. The election takes place in accordance with proportional representation notwithstanding inclusion of at least one member of every party belonging to the Main Committee. The Standing Orders must provide that the Standing Sub-Committee can be convoked and can meet at any time. If the House of Representatives in accordance with Article 29 (1) is dissolved by the Federal President, participation in the executive power which in accordance with this law otherwise lies with the House of Representatives devolves to the Standing Sub-Committee.

Part F Status of Members of the House of Representatives and the Senate

Article 56 Independence

The members of the House of Representatives and the members of the Senate are not bound in the exercise of their function by any mandate.

Article 57 Indemnity, Immunity

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

(2) The members of the House of Representatives may, on the ground of a criminal offence -- except for apprehension in flagrante delicto -- be arrested only with the consent of the House of Representatives. Searches of the home of House of Representatives members likewise require the House of Representatives' consent.

(3) Other legal action on the ground of a criminal offence may be taken against members of the House of Representatives without the House of Representatives' consent only if it is manifestly not connected to the political activity of the member in question. The authority concerned must seek a ruling by the House of Representatives on the existence of such a connection if the member in question or a third of the members belonging to the Standing Committee entrusted with these matters so demands. Every act of legal process shall in the case of such a demand immediately cease or be discontinued.

(4) In all these instances the consent of the House of Representatives counts as granted if within eight weeks it has not given a ruling on an appropriate request by the authority competent for the institution of legal action; the President, with a view to the House of Representatives' adoption of a resolution in good time, shall at the latest put such a request to the vote on the day but one before expiry of the deadline. The latter does not include the period when the House of Representatives is not in session.

(5) In case of a member's apprehension in the act of committing a crime, the authority concerned must immediately notify the President of the House of Representatives of the occurrence of the arrest. If the House of Representatives or, when it is not in session, the Standing Committee entrusted with these matters so demands, the arrest must be suspended or the legal process as a whole be dropped.

(6) The immunity of members ends with the day of the meeting of the newly

elected House of Representatives, that of functionaries of the House of Representatives whose tenure of office extends beyond this date on the expiry of this term of office.

(7) The detailed provisions are settled by the federal law on the House of Representatives' Standing Orders.

Article 58 Immunity in the Senate

The members of the Senate enjoy for the whole duration of their tenure of office the immunity of the members of the State Parliament which has delegated them.

Article 59 Incompatibility, Public Employment

(1) No one can simultaneously belong to the House of Representatives and the Senate.

(2) Public employees, including members of the Federal Army, require no leave of absence to hold a seat in the House of Representatives or in the Senate. If they seek a seat in the House of Representatives, they shall be granted the requisite free time. The service code will provide details.

Chapter III Federal Execution

Part A Administration

Title 1 The Federal President

Article 60 Election

(1) The Federal President is elected by the nation on the basis of equal, direct, secret, and personal suffrage. If there is only one candidate, the election takes place by way of referendum. Anyone with House of Representatives suffrage is entitled to vote. Voting in the election is compulsory in Federal States where State law so provides. Detailed provisions about the electoral procedure and possible compulsory voting will be established by a federal law. This same law shall in particular lay down the reasons held to excuse non-participation in the election regardless of compulsory voting.

(2) The candidate who polls more than half of all valid votes has been elected. If no such majority results, a second ballot takes place. Votes in this can validly be cast only for one of the two candidates who have polled the most votes in the first ballot; but each of the two groups of voters who

put up these two candidates can in the second ballot nominate another individual to replace its original candidate.

(3) Only a person who has House of Representatives franchise and was thirty five years old before the first of January of the year in which the election is held can be elected Federal President. Members of reigning houses or of formerly regnant families are excluded from eligibility.

(4) The result of the election of the Federal President shall be officially published by the Federal Chancellor.

(5) The Federal President holds office for six years. Re-election for the immediately following term of office is admissible once.

(6) Before expiry of his term of office the Federal President can be deposed by referendum. The referendum shall be held if the Federal Assembly so demands. The Federal Assembly shall be convoked by the Federal Chancellor for this purpose if the House of Representatives has passed such a motion. The House of Representatives vote requires the presence of at least half the members and a majority of two thirds of the votes cast. By such a House of Representatives vote, the Federal President is prevented from the further exercise of his office. Rejection by the referendum of the deposition works as a new election and entails the dissolution of the House of Representatives (Article 29 (1)). The Federal President's total term of office may not exceed twelve years.

Article 61 Incompatibility

(1) During his tenure of office, the Federal President may not belong to any popular representative body nor exercise any other occupation.

(2) The title "Federal President" may not, even with an addition or in the context of another designation, be used by anyone else. It is protected by law.

Article 62 Oath

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

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

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

Article 63 Immunity

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

Article 64 Temporary Discharge

- (1) All of the Federal President's responsibilities, should he be prevented from their discharge, pass in the first instance to the Federal Chancellor. If the impediment lasts longer than twenty days or if pursuant to Article 60 (6) the Federal President is prevented from the discharge of his office, the President, the Second President, and the Third President of the House of Representatives acting as a committee shall undertake the responsibilities of the Federal President. The same applies if the position of the Federal President is continuously deficient.
- (2) The committee entrusted with the exercise of the Federal President's functions according to Paragraph (1) decides by majority vote. Chairmanship of the committee and its public representation belong to the President of the House of Representatives.
- (3) Is one or are two of the House of Representatives' Presidents prevented from the discharge of their responsibilities or is their position continuously deficient, the committee constitutes a quorum even without their participation; in the event of a tied vote, the President senior in rank has the casting vote.
- (4) If the position of the Federal President is continuously deficient, the Federal Government shall immediately arrange the election of the new Federal President; after the ensuing election, the committee shall without delay convoke the Federal Assembly for the affirmation of the Federal President.

Article 65 Functions

- (1) The Federal President represents the Republic internationally, receives and accredits envoys, sanctions the appointment of foreign consuls, appoints the consular representatives of the Republic abroad, and concludes treaties.

At the time of conclusion of a treaty not falling under Article 50, he can direct that the treaty in question shall be implemented by the issue of ordinances.

(2) Furthermore, the following powers -- notwithstanding the powers assigned to him by other provisions of this Constitution -- are vested in the President:

- a) to appoint federal civil servants, including officers as well as other federal functionaries, and to bestow official titles on them;
- b) to create and to bestow professional titles;
- c) in individual cases to pardon persons sentenced without further resources of appeal, to mitigate and commute sentences pronounced by the courts, as an act of grace to annul sentences and to grant remission from their legal consequences, and moreover to quash criminal proceedings in actions subject to prosecution *ex officio*; and
- d) on the petition of parents to declare illegitimate children legitimate.

(3) Special laws provide to what extent powers are additionally vested in the Federal President with respect to the grant of honorary privileges, extraordinary gratifications, allowances and pensions, the right to nominate and confirm persons in appointments, and to exercise other powers in personnel matters.

Article 66 Authorization

(1) The Federal President can assign to the competent members of the Federal Government the right vested in him to appoint certain categories of federal civil servants.

(2) The Federal President can authorize the Federal Government or the competent members of the Federal Government to conclude certain categories of treaties which do not fall under the terms of Article 50; such an authorization extends also to the power to issue ordinances in accordance with Article 65 (1) second sentence.

Article 67 Recommendation, Countersignature

(1) Save as otherwise provided by the Constitution, all official acts of the Federal President shall be based on recommendation by the Federal Government or the Federal Minister authorized by it. The law provides to what extent the Federal Government or the competent Federal Minister is herein dependent on

recommendations from other quarters.

(2) Save as otherwise provided by the Constitution, all official acts of the Federal President require for their validity the countersignature of the Federal Chancellor or the competent Federal Minister.

Article 68 Responsibility

(1) Pursuant to Article 142, the Federal President is responsible to the Federal Assembly for the exercise of his functions.

(2) To assert this responsibility, the Federal Assembly shall on the vote of the House of Representatives or the Senate be convoked by the Federal Chancellor.

(3) The presence of more than half the members of each of the two representative bodies and a majority of two thirds of the votes cast is requisite to a vote whereby a charge, consonant with Article 142, is proffered against the Federal President.

Title 2 The Federal Government

Article 69 Government

(1) The Federal Chancellor, the Vice-Chancellor, and the other Federal Ministers are entrusted with the highest administrative business of the Federation in so far as this is not assigned to the Federal President. They constitute as a body the Federal Government under the chairmanship of the Federal Chancellor.

(2) The Vice-Chancellor is entitled to deputize for the Federal Chancellor in his entire sphere of competence. Should the Federal Chancellor and the Vice-Chancellor simultaneously be prevented from the discharge of their responsibilities, the Federal President entrusts a member of the Federal Government to deputize for the Federal Chancellor.

Article 70 Appointment

(1) The Federal Chancellor and, on his recommendation, the other members of the Federal Government are appointed by the Federal President. No recommendation is requisite to the dismissal of the Federal Chancellor or the whole Federal Government; the dismissal of individual members of the Federal Government ensues on the recommendation of the Federal Chancellor. The appointment of the Federal Chancellor or the whole Federal Government is

countersigned by the newly-appointed Federal Chancellor; dismissal requires no countersignature.

(2) Only persons eligible for the House of Representatives can be appointed Federal Chancellor, Vice-Chancellor, or Federal Minister; members of the Federal Government need not belong to the House of Representatives.

(3) Should a new Federal Government be appointed by the Federal President at a time when the House of Representatives is not in session, he must convoke the House of Representatives for an extraordinary session (Article 28 (2)) to meet within one week for the purpose of introducing the new Federal Government.

Article 71 Interim Government

Should the Federal Government have left office, the Federal President shall entrust members of the outgoing Government or senior civil servants of the Federal departments with continuation of the administration and one of them with the chairmanship of the provisional Federal Government until the formation of the new Federal Government. This provision applies analogously if individual members of the Federal Government have left office.

Article 72 Affirmation

(1) Before assuming office, the members of the Federal Government render an affirmation to the Federal President. The addition of a religious assertion is admissible.

(2) The instruments of appointment for the Federal Chancellor, the Vice-Chancellor, and the other Federal Ministers are executed by the Federal President on the day of the affirmation and are countersigned by the newly appointed Federal Chancellor.

(3) These provisions shall apply analogously to the cases mentioned in Article 71.

Article 73 Deputy Minister

Should a Federal Minister be temporarily prevented from discharging his responsibilities, the Federal President entrusts one of the other Federal Ministers or a senior civil servant of a Federal department to deputize for the Minister. This deputy carries the same responsibility as a Federal Minister (Article 76).

Article 74 Vote of No Confidence

(1) If the House of Representatives passes an explicit vote of no confidence in the Federal Government or individual members thereof, the Federal Government or the Federal Minister concerned shall be removed from office.

(2) The presence of half of the members of the House of Representatives is required for a vote of no confidence. Voting shall be adjourned until the next working day but one if one fifth of the members present so demands. Another adjournment of the division can ensue only from a decision by the House of Representatives.

(3) Notwithstanding the power otherwise vested in the Federal President in accordance with Article 70 (1), the Federal Government or its individual members shall in the legally specified contingencies or at their own wish be removed from office.

Article 75 Presence of Government

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

Article 76 Responsibility

(1) Pursuant to Article 142, the members of the Federal Government (Articles 69 and 71) are responsible to the House of Representatives.

(2) The presence of more than half the members is required for a motion which proffers a charge pursuant to Article 142.

Article 77 Federal Ministries

(1) The Federal Ministries and the authorities subordinate to them shall perform the business of the Federal administration.

(2) The number of the Federal Ministries, their competence, and their internal organization will be prescribed by federal law.

(3) The Federal Chancellor is entrusted with the direction of the Federal Chancellery and a Federal Minister is entrusted with the direction of each of the other Federal Ministries. The Federal President can assign to special Federal Ministers the direction of particular matters which fall within the Federal Chancellery's competence, including the personnel establishment and organization of such business, notwithstanding that these matters continue to belong to the Federal Chancellery; such Federal Ministers have, in respect of the matters in question, the status of a competent Federal Minister.

(4) The Federal Chancellor and other Federal Ministers can exceptionally be entrusted with the direction of a second Federal Ministry.

Article 78 Special Ministers, Secretaries of State

(1) In special cases, Federal Ministers can be appointed without at the same time being put in charge of a Federal Ministry.

(2) Secretaries of State, who are appointed and leave office in the same way as Federal Ministers, can be attached to Federal Ministers for assistance in the conduct of business and to deputize for them in Parliament.

(3) A Secretary of State is subordinate to a Federal Minister and bound by his instructions.

Title 3 The Federal Army

Article 79 Military Defence, Other Functions

(1) The country's military defence is the duty of the Federal Army.

(2) The Federal Army, in so far as the lawful civil power claims its co-operation, has furthermore:

1. over and above the sphere of the country's military defence

a) to protect the constitutionally established institutions as well as their capacity to operate and the population's democratic freedoms,

b) to maintain order and security inside the country; and

2. to render assistance in the case of natural catastrophes and disasters of exceptional magnitude.

(3) Additional tasks of the Federal Army will be prescribed by Federal

constitutional law.

(4) The Defence Law regulates which officials and authorities can lay direct claim to the co-operation of the Federal Army for the purposes mentioned in Paragraph (2).

(5) Intervention by the military on its own initiative for the purposes mentioned in Paragraph (2) is admissible only if circumstances outside their control have put it beyond capacity of the competent officials to effect intervention by the military and irreparable damage to the community at large would arise from a further wait or if it concerns the repulse of an actual attack, or the elimination of active resistance directed against a section of the Federal Army.

Article 80 Command

(1) Commander-in-Chief of the Federal Army is the Federal President.

(2) Save in so far as the Defence Law reserves disposal over the Federal Army to the Federal President, disposal over it lies with the competent Federal Minister within the limits of the authorization conferred on him by the Federal Government.

(3) Supreme command over the Federal Army is exercised by the competent Federal Minister (Article 76 (1)).

Article 81 State Participation

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

Title 4 The Federal School Authorities

Article 81a Competence, School Boards

(1) The administration of the Federation in the field of schooling and in the field of education in matters of student hostels shall be undertaken by the competent Federal Minister and -- in so far as neither the university and fine arts academical system nor the agricultural and forestry school system nor the forestry and agricultural educational system in matters of student hostels are concerned -- by the school authorities of the Federation subordinate to the competent Federal Minister. The Counties can, as part of the Federation's assigned sphere of competence, be called upon to maintain registers of those who are of school-attendance age.

(2) A school authority shall be established in each State and in each political District and be known as the State school board and the District school board respectively. In Vienna, the State school board shall also undertake the duties of the District school board and be known as the Vienna City School Board. The applicable sphere of competence for members of the State and District school boards shall be prescribed by federal law.

(3) The following guiding principles shall apply to the establishment, to be prescribed by law, of the Federal school authorities:

a) Committees shall be appointed within the framework of the Federal school authorities structure. Committee members of the State school boards, with voting rights, shall be appointed in proportion to party strength in the State Parliament, committee members of the District school boards, with voting rights, in proportion to the votes polled in the District by the parties represented in the State Parliament at the last State Parliament election. The appointment of all or some of the committee members by the State Parliament is admissible.

b) The president of the State school board is the State-Governor, the chairman of the District school board is the head of the District administrative authority. Should the appointment of an executive State school board president be foreseen by law, he shall deputize for the president in all business which the president does not reserve to himself. Should the appointment of a vice-president be prescribed by law, he is entitled to inspect documents and to offer advice; such a vice-president shall in any case be appointed for those five States which, in accordance with the result of the last census taken prior to this Federal constitutional law coming into force, have the largest number of inhabitants.

c) The terms of reference for the committees and the presidents of the State and District school boards shall be regulated by law. The committees shall be competent to issue rules and general instructions, to appoint officials and to render proposals for nominations as well as to render opinions on drafts of laws and ordinances.

d) In cases of urgency which do not admit of postponement until the committee's next meeting, the president shall take action in the sphere of competence allocated to the committee as of its business and without delay inform the committee of this.

e) Should for more than two months a committee lack a quorum, the tasks of the committee for the further period of its numerical incapacity devolve upon the

president. In these cases the president replaces the committee.

(4) Instructions (Article 20 (1)) cannot be given on matters which fall into the committees' sphere of competence. This does not apply to instructions which forbid the implementation of a committee resolution as being contrary to law or which direct the repeal of an ordinance issued by the committee. The reasons for such instructions shall be stated. In accordance with Article 129 ff., the authority in receipt of the instruction can on the basis of a committee resolution immediately make complaint to the Administrative Court.

(5) The competent Federal Minister can control in person or through officials of the Federal Ministry in his charge the condition and performance of those schools and student hostels which are subordinate to the Federal Ministry by way of the State school board. Noticed shortcomings -- in so far as they do not concern such in the sense of Article 14 (8) -- shall be revealed to the State school board for the purpose of their redress.

Article 81b Proposals

(1) The State school board shall render three sets of proposals:

(a) for the filling of Federation vacancies for headmasters or headmistresses as well as other teachers and educational assistants at schools and student hostels subordinate to the State school boards;

(b) for the filling of Federation vacancies for the school supervisory officials serving with the State and District school boards as well as for the appointment of teachers with school supervisory functions; and

(c) for the appointment of chairmen and members of the examination boards for the teaching diploma at upper primary schools and special schools.

(2) The proposals in accordance with Paragraph (1) shall be rendered, pursuant to Article 66 (1) or 67 (1) or by reason of other provisions, to the competent Federal Minister. The selection of individuals from among those proposed is incumbent on the Federal Minister.

(3) Every State school board shall establish eligibility and disciplinary school boards of first instance for headmasters or headmistresses and other teachers as well as educational assistants who are employees under public law of the Federation and are employed at a school or student hostel subordinate to the State school board. The details shall be prescribed by federal law.

Part B Jurisdiction

Article 82 Judgments

- (1) The Federation is the source of all jurisdiction.
- (2) Judgments and decisions are pronounced and drawn up in the name of the Republic.

Article 83 Court Organization, Constitutional Judge

- (1) The constitution and competence of the courts is laid down by federal law.
- (2) No one may be deprived of his lawful judge.

Article 84 Military Tribunals

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

Article 85 Capital Punishment

Capital punishment is abolished.

Article 86 Appointment

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

Article 87 Independence

- (1) Judges are independent in the exercise of their judicial office.
- (2) A judge is independent in the exercise of his judicial office, during the performance of any judicial function properly his by law, and in the allocation of business, though to the exclusion of the judiciary's administrative business which in accordance with the provisions of the law shall not be discharged by tribunals or commissions.

(3) Business shall be allocated in advance among the judges of a court for the period provided by the law on the organization of the courts. A matter devolving upon a judge in accordance with this allocation may be removed from his jurisdiction by decree of the judiciary's administrative authorities only if he is prevented from the discharge of his responsibilities.

Article 87a Small Business

(1) The performance of certain kinds of business, which shall be exactly specified and fall within the jurisdiction of a civil court of first instance, can by federal law be assigned to specially trained employees of the Federation who are not Judges.

(2) The judge competent in accordance with the allocation of business can at any time reserve to himself or take over the discharge of such business.

(3) Employees of the Federation who are not judges are bound in the performance of business specified in Paragraph (1) only by instructions from the judge competent in accordance with the allocation of business. Article 20 (1) third sentence applies.

Article 88 Retirement, Suspension

(1) The law on the organization of the courts will prescribe an age limit upon whose attainment judges will be put on the permanently retired list.

(2) Otherwise judges may be removed from office or transferred against their will or superannuated only in the cases and ways prescribed by law and by reason of a formal judicial decision. These provisions do not apply to transfers and retirements which become necessary through changes in the organization of the courts. In such a case the law will lay down within which period judges can, without the formalities otherwise prescribed, be transferred and superannuated.

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

Article 89 Judicial Review of Laws

(1) Save as otherwise provided by this Article, the courts are not entitled to examine the validity of duly published laws, ordinances, and treaties.

(2) Should a court have scruples against the application of an ordinance on

the ground of it being contrary to law, it shall file an application with the Constitutional Court for rescission of this ordinance. Should the Supreme Court or a court of second instance competent to give judgment have scruples against the application of a law on the ground of its being unconstitutional, it shall file an application with the Constitutional Court for rescission of this law.

(3) If the legal regulation to be applied has already ceased to be in force, the Court's application to the Constitutional Court must request a decision that the legal regulation was contrary to law or unconstitutional.

(4) Paragraphs (2) and (3) apply analogously to treaties as provided in Article 140a.

(5) Federal law shall determine what effects an application pursuant to Paragraphs (2), (3), or (4) has on the pending legal proceedings.

Article 90 Publicity, Indictment

(1) Hearings in civil and criminal cases are oral and public. Exceptions are regulated by law.

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

Article 91 Juries in Criminal Proceedings

(1) The people shall participate in the administration of justice.

(2) A jury returns a verdict upon the guilt of the accused in crimes entailing severe penalties, to be specified by law, and in all cases of political felonies and misdemeanors.

(3) In criminal proceedings for other punishable offenses Jurors take part in the administration of justice if the penalty to be imposed exceeds a limit to be determined by law.

Article 92 Supreme Court

(1) The Supreme Court is the court of final instance in civil and criminal suits.

(2) Members of the Federal Government, a State government, or a popular representative body cannot be members of the Supreme Court. For members of a popular representative body elected for a fixed term of legislation or office such incompatibility continues until the expiry of that term of legislation or

office even though they prematurely renounce their seat. Anyone who during the preceding four years has exercised one of the aforesaid functions cannot be appointed President or Vice-President of the Supreme Court.

Article 93 Pardons

Pardons for acts punishable by the courts are extended by federal law.

Article 94 Separation of Powers

Judicial and administrative powers shall be separate at all levels of proceedings.

Chapter IV Legislation and Execution by the States

Part A General Provisions

Article 95 State Parliaments

(1) The legislation of the States is carried out by the State Parliaments. Their members are elected on the basis of proportional representation by equal, direct, secret, and personal suffrage of all male and female federal nationals who in accordance with the State Parliament electoral regulations are entitled to vote and who have their domicile in the State concerned. The provision of Article 26 (1) last sentence applies analogously; the reasons which are held to excuse abstention may not be more restrictive than in the electoral regulations for the House of Representatives.

(2) The State Parliament electoral regulations may not impose more stringent conditions for suffrage and electoral eligibility than the electoral regulations for the House of Representatives.

(3) The voters exercise their franchise in constituencies each of which must comprise a territorial unit. The number of members shall be divided among the constituencies in proportion to the number of nationals. A division of the electorate into other electoral bodies is not admissible.

(4) Public employees, including members of the Federal Army, who seek a seat in or are elected for membership of a State Parliament shall be granted the time necessary for canvassing or fulfilling their membership duties. Service regulations will lay down details.

Article 96 Immunity

(1) The members of a State Parliament enjoy the same immunity as the members

of the House of Representatives, the provisions of Article 57 apply analogously.

(2) The provisions of Articles 32 and 33 apply to the meetings of State Parliaments and their committees.

Article 97 State Legislation

(1) A State law requires a vote by a State Parliament, authentication and countersignature in accordance with the provisions of the State concerned, and publication by the State-Governor in the State Law Gazette.

(2) Inasmuch as a State law foresees in its execution the co-operation of Federal authorities, the approval of the Federal Government must be obtained. The approval shall be deemed given if within eight weeks from the day of the enactment's receipt at the Federal Chancellery the Federal Government has not informed the State-Governor that the co-operation of the Federal authorities is refused. Before the expiry of this deadline publication of the enactment may only ensue if the Federal Government has expressly agreed.

Article 98 Notification, Objection

(1) All State Parliament enactments shall, immediately after they have been passed by a State Parliament, be notified by the State-Governor to the competent Federal Ministry prior to their publication.

(2) The Federal Government can within eight weeks from the day of an enactment's receipt at the Federal Chancellery enter a reasoned objection to a State Parliament enactment as endangering Federal interests. If the Federation was prior to the initiation of the legislative procedure for enactment given opportunity to comment on the draft bill, the objection may only be founded on an alleged encroachment on the Federation's competence. In case of an objection, the law may only be published if the State Parliament in the presence of at least half the members once more votes its enactment.

(3) Publication prior to expiry of the deadline for objection is admissible only if the Federal Government expressly agrees.

(4) The provisions of the Constitutional Finance Law apply to State Parliament enactments which deal with taxation.

Article 99 State Constitutions

(1) The State Constitution to be enacted by a State constitutional law can,

inasmuch as the Federal Constitution is not affected thereby, be amended by State constitutional law.

(2) A State constitutional law can be passed only in the presence of half the members of the State Parliament and with a two thirds majority of the votes cast.

Article 100 Dissolution

(1) Every State Parliament can be dissolved by the Federal President at the request of the Federal Government and with the sanction of the Senate. The motion in the Senate must be carried in the presence of half the members and with a two thirds majority of the votes cast. The representatives of the State whose State Parliament is to be dissolved may not participate in the division.

(2) In case of dissolution, writs for new elections shall be issued within three weeks in accordance with the provisions of the State constitution; the convocation of the newly elected State Parliament must take place within four weeks after the election.

Article 101 State Government

(1) The executive power in each State is exercised by a State Government to be elected by the State Parliament.

(2) The members of a State Government need not belong to the State Parliament. Nevertheless, only persons eligible for the State Parliament can be elected to membership of the State Government.

(3) The State Government consists of the State-Governor, the requisite number of deputies, and other members.

(4) Before assumption of office, the State-Governor renders to the Federal President, the other members of the State Government render to the State-Governor, an affirmation with respect to the Federal Constitution. The addition of a religious assertion is admissible.

Article 102 State-Governor

(1) In the sphere of the States, in so far as no direct federal administration exists, the State-Governor and the State authorities subordinate to him exercise the executive power of the Federation. In so far as federal authorities, especially Federal public safety authorities, are entrusted with the execution of matters which are performed as indirect Federal administration, these federal authorities are subordinate to the State-

Governor and bound by his instructions (Article 20 (1)); whether and to what extent such federal authorities are entrusted with executive acts is regulated by federal laws; these may, in so far as they do not concern the mandate stated in Paragraph (2), only be published with the sanction of the States concerned.

(2) The following matters can, within the framework of the constitutionally established sphere of competence, be directly performed by the federal authorities:

demarcation of frontiers, trade in goods and livestock with other countries, customs regulation and control of entry into and exit from federal territory, Federal finances monopolies, the weights and measures, standards and hallmark system, technical experiments, administration of justice, passports, residence registration, matters of weapons, ammunition and explosives as well as the use of fire-arms,

patent matters and the protection of designs, trade marks, and other commodity descriptions,

the traffic system, river and navigation police, the postal and telecommunications system, mining, Danube control and conservation, regulation of torrents, construction and maintenance of waterways, surveying, labor legislation, social insurance, the preservation of monuments,

operation and conduct of the Federal police and the Federal gendarmerie, including the exceptional circumstances where on the day of entry into force of this Federal Constitutional Law the local sphere of competence for a Federal public safety authority does not coincide with the territory of a Federal State,

the maintenance of peace, order and security, excluding the local public safety authorities,

Press affairs, matters of association and assembly, and the aliens police, military affairs, welfare measures for combatants and their dependents, population policy in so far as it concerns the grant of children's allowances and the organization of burden equalization on behalf of families schooling as well as education in matters of pupil and student hostels with the exception of agricultural and forestry education in matters of student hostels.

(3) The Federation remains entitled to delegate to the State-Governor its executive power also in the matters enumerated in Paragraph (2).

(4) The establishment of federal authorities for matters other than those specified in Paragraph (2) above can ensue only with the sanction of the States concerned.

(5) No other regional authority may set up and maintain a constabulary in the

local sphere of competence of a Federal public safety administration to which a Federal police force is attached. The dissolution of constabularies whose establishment or continuance is contrary to this provision falls under the executive power of the Federation.

(6) The establishment of Federal public safety authorities, the definition of their local sphere of competence and of their substantive sphere of competence in administrative fields which in accordance with Article 10 provide for execution by Federal public safety authorities, as well as the issue of a special service code for their officials ensue on Federal Government ordinance. In so far as such an authority is to be assigned the performance of matters which fall into the autonomous sphere of execution by a State, the ordinance can be issued only if the assignment of such business to the Federal public safety authority has been enunciated in a law of the State in question.

(7) Should in particular Counties the need arise to take special measures because of danger to public peace and order, the competent Federal Minister can for the duration of the danger entrust special Federal officials with these measures.

Article 103 Instructions

(1) In matters of the indirect Federal administration the State-Governor is bound by instructions from the Federal Government and individual Federal Ministers (Article 20) and he is obliged, in order to effect the implementation of such instructions, to employ the powers available to him in his capacity as a functionary of the State's autonomous sphere of competence.

(2) A State Government, when it draws up its Standing Orders, can decide that specific categories of business of the indirect Federal administration shall be conducted by members of the State Government in the name of the State-Governor because of their substantive relationship with matters of the State's autonomous sphere of competence. In such business the members concerned of the State Government are as much bound by the instructions of the State-Governor (Article 20) as is the latter by the instructions of the Federal Government or individual Federal Ministers.

(3) Instructions issued by the Federal Government or individual Federal Ministers in accordance with Paragraph (1) shall also in instances falling under Paragraph (2) be addressed to the State-Governor. The latter, should he not himself be conducting the relevant business of the indirect Federal administration, is responsible (Article 142 (2) (d)) for passing the instruction in writing without delay and unaltered to the State Government member concerned and for supervising its implementation. If the instruction is

not complied with although the State-Governor has made the necessary arrangements, the State Government member concerned is, pursuant to Article 142, responsible to the Federal Government as well.

(4) In matters of indirect Federal administration, in so far as it is the State-Governor's responsibility as the appeal authority to reach a decision and federal law because of the matter's importance does not exceptionally provide otherwise, the State-Governor is the final instance of appeal; if the decision rests in the first instance with the State-Governor, the stages of administrative appeal in matters of the indirect Federal administration extend, unless provided otherwise by federal law, to the competent Federal Minister.

Article 104 Assignment

(1) The provisions of Article 102 shall not apply to agencies for the performance of Federal business specified in Article 17.

(2) Nonetheless, the Federal Minister entrusted with the administration of Federal assets can assign the performance of such business to a State-Governor and the authorities subordinate to him. Such an assignment can at any time be revoked in part or in whole. To what extent in exceptional instances the Federation makes recompense for the accrued costs of performing such business will be regulated by federal law.

Article 105 Representation, Deputy State-Governor, Responsibility

(1) The State-Governor represents the State. In matters of the indirect Federal administration, he is, pursuant to Article 142, responsible to the Federal Government. The State-Governor has a member of the State Government as Deputy State-Governor selected by the State Government to substitute him. This appointment shall be notified to the Federal Chancellor. Should the need for substitution occur, the member of the State Government appointed as substitute is, pursuant to Article 142, likewise responsible to the Federal Government in matters of the indirect Federal administration. Immunity does not bar responsibility on the part of the State-Governor or the member of the State Government, who acts for him. Immunity also does not bar responsibility on the part of a member of the State Government in a case arising under Article 103 (3).

(2) The members of the State Government are responsible to the State Parliament pursuant to Article 142.

(3) A vote to prefer a charge within the meaning of Article 142 requires the presence of half the members.

Article 106 State Administrative Director

An administrative civil servant with legal training will be appointed to take charge as State Administrative Director of the State Government Office's internal services. He is also the official assistant of the State-Governor in matters of the indirect Federal administration.

Article 107 {...}

Part B The Federal Capital, Vienna

Article 108 Institutions, Offices

For the Federal capital, Vienna, in its capacity as a State, the County Parliament has the additional function of a State Parliament, the Town Senate the function of a State Government, the Mayor the function of the State-Governor, the Magistrate the function of the State Government Office, and the Magistrate Director the function of the State Administrative Director.

Article 109 Appeal

In the State Vienna the chain of appeal in matters of the indirect Federal administration, unless precluded by federal law, is from the Magistrate acting as District administrative authority or, in so far as federal authorities are in the first instance entrusted with their execution (Article 102 (1) second sentence), from them to the Mayor in his capacity as State-Governor; in other respects Article 103 (4) applies.

Article 110 Administrative Tribunal

The administrative tribunal to be constituted pursuant to Article 11 (5) at the Magistrate of the Federal capital, Vienna, in its capacity as the State Government Office, for the delivery of judgments as authority of last resort in administrative penal business within the State's autonomous sphere of competence shall at the same time also undertake the delivery of judgments as authority of last resort in administrative penal business of the indirect Federal administration; in these cases the Mayor, in his capacity as State-Governor, is competent to exercise the right of clemency on the ground of recommendations by the administrative penal tribunals.

Article 111 Special Committees

The final decision in matters of building and taxation lies with special

committees of officials. Their composition and appointment will be prescribed by State law.

Article 112

Except for the provisions in Articles 108 to 111 , the provisions in Part C of this Chapter apply to the Federal capital, Vienna, with the exception of Article 119 (4), 119a . Article 142 (2) (d) also applies to the conduct of the sphere of competence assigned by the Federation to the Federal capital, Vienna.

Article 113 {...}

Article 114 {...}

Part C Counties

Article 115 Local Counties, Competence

(1) In so far as in the following Articles the term County is used, the reference is to be taken as meaning Local County.

(2) Save as competence on the part of the Federation is expressly stipulated, State legislation shall prescribe laws of Counties in accordance with the principles of the Articles contained in this Part. Competence for the settlement of matters which, pursuant to Articles 118 and 119 , are to be performed by the Counties, will be determined in accordance with the general provisions of this Federal Constitutional Law.

Article 116 Self-Administration

(1) Every State is divided into Counties. The County is a territorial corporate body entitled to self-administration while being at the same time an administrative local district. Every piece of State must form part of a County.

(2) The County is an independent economic entity. It is entitled, within the limits of the laws of the Federation and the States, to possess assets of all kinds, to acquire and to dispose of such at will, to operate economic enterprises as well as to manage its budget independently within the framework of the constitutional finance provisions and to levy taxation.

(3) A County with at least 20,000 inhabitants shall, at its own request, if State interests are not thereby jeopardized, be awarded its own charter by way

of State legislation. Such an enactment may only be published with Federal Government approval. This shall be deemed given if the Federal Government, within eight weeks from the day of the enactment's arrival at the competent Federal Ministry, has not informed the State-Governor that the approval is refused. A town with its own charter shall perform besides its local administrative duties also those of the District administration.

(4) The formation of County Associations for specific purposes can be planned on the basis of the competent legislation (Articles 10 to 15). In so far as such County Associations are to undertake matters within the County's own sphere of competence, the members of the County Association shall be accorded decisive influence upon the performance of the association's functions. The Counties concerned shall be given a hearing prior to the formation of County Associations by way of an executive measure.

Article 117 Authorities, Elections

(1) The authorities of the County shall in every instance include:

- a) the County Parliament, being a popular representative body to be elected by those entitled to vote in the County
- b) the County Board, also known as the Town Council or, in towns with their own charter, the Town Senate, and
- c) the Mayor.

(2) Elections to the County Parliament take place on the basis of proportional representation by equal, direct, secret, and personal suffrage of all Federal nationals who have their domicile in the County. In the electoral regulations the conditions for suffrage and electoral eligibility may not be more restrictive than in the electoral regulations for the State Parliament. It can be provided, however, that individuals who have not yet been residents in the County for at least one year shall not be entitled to vote or to stand for election to the County Parliament if their residence in the County is manifestly temporary. The provisions about compulsory voting in the elections to the State Parliament (Article 95 (1) last sentence) apply analogously to elections to the County Parliament. The electoral regulations can provide that the voters exercise their suffrage in constituencies each of which must comprise a territorial unit. A division of the electorate into other electoral bodies is not admissible.

(3) A simple majority by members present in sufficient numbers to form a quorum is requisite to a vote by the County Parliament; for certain matters, though, other requirements for the adoption of resolutions can be provided.

(4) Meetings of the County Parliament are public, but provision can be made for exceptions. The public may not be excluded when the County Budget or the County's final accounts are on the agenda.

(5) Electoral parties represented in the County Parliament have a claim to representation on the County Board in accordance with their strength.

(6) The business of the Counties will be performed by the County Administration or Town Administration, that of towns with their own charter by the Magistrate. A civil servant with legal training shall be appointed to take charge as Magistrate Director of the Magistrate's internal services.

Article 118 Competencies

(1) A County has its own sphere of competence and one assigned to it either by the Federation or the State.

(2) Its own sphere of competence comprises, apart from the matters mentioned in Article 116 (2) , all matters exclusively or preponderantly concerning the local community as personified by a County, and suited to performance by the community within its local boundaries. Legislation shall expressly specify matters of that kind as being such falling within the County's own sphere of competence.

(3) A County is guaranteed official responsibility in its own sphere of competence particularly for performance of the following matters:

1. appointment of the local authorities, notwithstanding the competence of selection boards at a higher level; settlement of the internal arrangements for performance of the County functions;
2. appointment of the County staff and exercise of the official responsibility over them, notwithstanding the competence of disciplinary, eligibility, and investigatory commissions at a higher level;
3. local public safety administration (Article 15 (2)), local events control;
4. administration of County traffic areas, local traffic police;
5. crops protection police;
6. local market police;

7. local sanitary police, especially in the field of emergency and first aid services as well as matters of deaths and interment;
8. public decency;
9. local building police excluding federally owned buildings which serve public purposes (Article 15 (5)); local fire control; local environment planning;
10. public services for extra-judicial settlement of disputes; and
11. debtors' sale of goods.

(4) The County shall perform the business for which it is competent within the framework of the laws and ordinances of the Federation and the State on its own responsibility free from instructions and -- subject to the provisos of Article 119a (5) -- to the exclusion of legal redress to administrative authorities outside the County. A right of supervision (Article 119a) pertains to the Federation and to the State over the County with respect to its performance in its own sphere of competence. The provisions of Article 12 (2) remain unaffected.

(5) The Mayor, the members of the County Board, and, if appointed, other County officials are responsible to the County Parliament for the performance of their functions relating to the County's own sphere of competence.

(6) The County is entitled in matters of its own sphere of competence to issue on its own initiative local police ordinances for the prevention or elimination of nuisances interfering with local community life as well as to declare non-compliance with them an administrative contravention. Such ordinances may not violate existent laws and ordinances of the Federation and State.

(7) On application by a County, the performance of certain matters in its own sphere of competence can, in accordance with Article 119a (3) , be assigned by ordinance of the State Government or by ordinance of the State-Governor to a state authority. In so far as such an ordinance is meant to assign competence to a Federal authority, it requires the approval of the Federal Government. In so far as such an ordinance by the State-Governor is meant to assign competence to a State authority, it requires the approval of the State Government. Such an ordinance shall be rescinded as soon as the reason for its issue has ceased. Assignment does not extend to the right to issue ordinances in accordance with Paragraph (6).

Article 119 Assignment

(1) The assigned sphere of competence comprises those matters which the County, in accordance with federal laws, must undertake at the order and in accordance with the instructions of the Federation or in accordance with State laws at the order and in accordance with instructions of the State.

(2) The business of the assigned sphere of competence is performed by the Mayor. In doing so, he is in matters of Federal execution bound by instructions from the competent Federal authorities, in matters of State execution by instructions from the competent State authorities, he is responsible in accordance with Paragraph (4).

(3) The Mayor can, without deviation from his responsibility, on account of their factual connection with matters of the County's own sphere of competence transfer individual categories of matters of the assigned sphere of competence to members of the County Board other authorities created in accordance with Article 117 (1) , or members of official bodies for performance in his name. In these matters the authorities concerned or their members are bound by the instructions of the Mayor and responsible in accordance with Paragraph (4).

(4) In so far as malice or gross negligence can be laid to their charge, the authorities named in Paragraphs (2) and (3) can on account of breach of law as well as on account of non-compliance with an ordinance or instruction be declared to have forfeited their office, by the State-Governor if they were acting in the field of Federal execution, by the State Government if they were acting in the field of State execution. Should such a person belong to the County Parliament, the membership is not affected.

Article 119a Supervision

(1) The Federation and the State exercise the right of supervision over a County to the purpose that it does not infringe laws and ordinances in dealing with its own sphere of competence, in particular does not overstep its sphere of competence, and fulfills the duties legally devolving upon it.

(2) The State has the right to examine the financial administration of a County with respect to its thrift, efficiency, and expediency. The result of the examination shall be conveyed to the Mayor for submission to the County Parliament. The Mayor shall within three months inform the supervisory authority of the measures taken by reason of the result of the check.

(3) In so far as a County's own sphere of competence comprises matters deriving from the sphere of Federal execution, the right of supervision and its legislative regulation lie with the Federation, in other respects with the

States, the right of supervision shall be exercised by the authorities of the ordinary public administration.

(4) The supervisory authority is entitled to inform itself about every kind of County business. The County is bound to give the information demanded in individual cases by the supervisory authority and to allow examination to be conducted on the spot.

(5) Whoever alleges infringement of his rights through the ruling of a local authority in matters belonging to its own sphere of competence can, after exhausting all channels of appeal (Article 118 (4)), within two weeks after issuing of the ruling make representations against it to the supervisory authority. The latter shall rescind the ruling if the right of the intervener has been infringed and remand the matter to the County. For towns with their own charter, the competent legislature (Paragraph (3)) can direct that representation to the supervisory authority.

(6) The County shall without delay advise the supervisory authority of ordinances issued in its own sphere of competence. The supervisory authority shall, after a hearing of the County, rescind ordinances which are contrary to law and advise the County of the reasons.

(7) In so far as the competent legislature (Paragraph (3)) contemplates the dissolution of the County Parliament as a supervisory expedient, this measure rests with the State Government in exercise of the State's right of supervision, with the State-Governor in exercise of the Federation's right of supervision. The admissibility of effecting a substitution shall be restricted to cases of absolute necessity. Supervisory expedients shall be applied with greatest possible consideration for third parties' acquired rights.

(8) Individual measures to be taken by a County in its own sphere of competence, but which to a certain degree affect extra-local interests particularly such having a distinct financial bearing, can be tied by the competent legislature (Paragraph (3)) to a sanction on the part of the supervisory authority. Only a state of affairs which unequivocally justifies the preference of extra-local interests may come into consideration as a reason for withholding the sanction.

(9) The County has the status of a party to supervisory authority proceedings; it is entitled to lodge complaints with the Administrative Court (Articles 131 and 132) and with the Constitutional Court (Article 144) against the supervisory authority.

(10) This Article applies analogously to supervision of County Associations in so far as these perform matters pertaining to a County's own sphere of

competence (Article 116 (4)).

Article 120 Local and Regional Counties

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

Chapter V Control of Public Accounts and Administration of Public Funds

Article 121 Auditing Board

(1) The Auditing Board is competent to examine the administration of public funds by Federation, States, County Associations, Counties and other legal entities determined by law.

(2) The Auditing Board draws up the final Federal budget accounts and submits them to the House of Representatives. The contents of the final Federal budget accounts may not be published before the beginning of the debate thereon in the House of Representatives.

(3) All vouchers about financial debts of the Federation, in so far as they result in liability on the part of the Federation, shall be countersigned by the President of the Auditing Board or, should he be impeded, by his deputy. The countersignature guarantees only the legality of the debt incurred and its proper entry in the National Debt ledger.

Article 122 Responsibility, Independence, Establishment

(1) The Auditing Board is directly subordinate to the House of Representatives. It acts in matters pertaining to Federal administration of public funds as agent for the House of Representatives, in matters pertaining to States, County Associations, and local administration of public funds as agent for the State Parliament concerned.

(2) The Auditing Board is independent of the Federal Government and the State Governments and subject only to the provisions of the law.

(3) The Auditing Board consists of a President, a Vice-President, and the

requisite officials and auxiliary personnel.

(4) The President and Vice-President of the Auditing Board are elected on the proposal of the Main Committee of the House of Representatives. Before their assumption of office they render an affirmation to the Federal President.

(5) The President and the Vice-President of the Auditing Board may neither belong to any popular representative body nor may they, during the past four years, have held office in the Federal Government.

Article 123 President of the Board

(1) With regard to accountability, the President of the Auditing Board has the same status as members of the Federal Government or members of the State Government concerned, depending on whether the Auditing Board acts as agent of the House of Representatives or a State Parliament.

(2) The President and/or the Vice-President of the Auditing Board can be relieved of office by a vote of the House of Representatives.

Article 123a Participation in Debates

(1) The President and the Vice-President of the Auditing Board are entitled to participate in the debates by the House of Representatives and its committees (sub-committees) on reports by the Auditing Board, on the final Federal budget accounts, and on the sections relating to the Auditing Board in the Federal Finance bill.

(2) The President of the Auditing Board has, in accordance with the detailed provisions of the Federal law on the House of Representatives' Standing Orders, always the right to be heard at his own request in the debates on the subjects listed in Paragraph (1).

Article 124 Temporary Discharge

(1) Should the President of the Auditing Board be prevented from the discharge of his responsibilities, the Vice-President will act for him, and if the Vice-President too is impeded, the senior official of the Auditing Board will deputize. This also holds good if the office of President is vacant. Who shall act in the House of Representatives as deputy for the President of the Auditing Board is settled by the Federal law on the House of Representatives' Standing Orders.

(2) If someone deputizes for the President, the provisions of Article 123 (1) apply to the deputy.

Article 125 Appointment

(1) The officials of the Auditing Board are appointed by the Federal President upon the recommendation and with the countersignature of the President of the Auditing Board; the same applies to granting official titles. The Federal President may, however, authorize the President of the Auditing Board to appoint officials of certain categories.

(2) The President of the Auditing Board appoints the auxiliary personnel.

Article 126 Incompatibilities

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

Article 126a Ruling About Competence

Should divergences of opinion arise between the Auditing Board and the Federal Government or a Federal Minister or a State Government on interpretation of the legal provisions which prescribe the competence of the Auditing Board, the Constitutional Court, upon request by the Federal or State Government or the Auditing Board, decides the issue in closed proceedings. The Procedure will be prescribed by Federal law.

Article 126b Scope of Examination

(1) The Auditing Board shall examine the entire management, of the Federation and, furthermore, the financial administration of endowments, funds, and institutions administered by Federal authorities or persons or groups of persons appointed for this purpose by authorities of the Federation.

(2) The Auditing Board also examines the financial administration of enterprises where the Federation is either the sole participant or holds at least fifty percent of the share capital together with other legal entities falling within the competence of the Auditing Board or where the Federation is either their sole or joint operator with other such legal entities. Such a financial participation shall be deemed equivalent to the control of enterprises by other financial, economic, or organizational measures. Moreover, the competence of the Auditing Board extends to enterprises of any additional category where the conditions pursuant to this paragraph exist.

(3) The Auditing Board is competent to examine the financial administration of corporations under public law using Federal funds.

(4) The Auditing Board shall, on a vote by the House of Representatives or at the request of House of Representatives members, carry out special measures of investigation into financial administration which falls into its sphere of competence. The more detailed regulation will be laid down by the Federal law on the House of Representatives' Standing Orders. The Auditing Board shall likewise carry out such measures at the substantiated request of the Federal Government or a Federal Minister and report the result to the applicant authority.

(5) Examination by the Auditing Board shall extend to arithmetical correctness, compliance with existing regulations, and the employment of thrift, efficiency and expediency.

Article 126c Financial Examination

The Auditing Board is competent to examine the financial administration of the social insurance institutions.

Article 126d Annual Report

(1) The Auditing Board annually renders the House of Representatives, not later than 15 October, in any year a report on its activities. The Auditing Board can also, at any time, report to the House of Representatives its observations on individual matters and, if necessary, make proposals. The Auditing Board must simultaneously with its submission to the House of Representatives inform the Federal Chancellor of every report. The annual report of the Auditing Board on its activities shall be published; a publication of the contents may not, however, ensue before the beginning of the House of Representatives deliberation.

(2) A Standing Committee shall be appointed by the House of Representatives to discuss the reports of the Auditing Board. Its appointment shall maintain the principle of proportional representation.

Article 127 State Examination

(1) The Auditing Board shall examine the financial administration of the States in their autonomous sphere of competence as well as the financial administration of endowments, funds, and institutions administered by the authorities of a State or persons or groups of persons appointed for the purpose by authorities of the State. The examination shall extend to arithmetical correctness, compliance with existing regulations, and the

employment of thrift, efficiency, and expedience in the financial administration; it shall not, however, include the resolutions passed by the constitutionally competent representative bodies with respect to the financial administration.

(2) The State Governments shall annually transmit to the Auditing Board the budget estimates and the final budget accounts.

(3) The Auditing Board also examines the financial administration of enterprises where the State is either the sole participant or holds at least fifty per cent of the share capital together with other legal entities falling within the competence of the Auditing Board or where the State is either their sole or joint operator with other such legal entities. As regards the concept of financial participation, Article 126b (2) applies analogously. The competence of the Auditing Board also extends to enterprises of any additional category where the conditions pursuant to this paragraph exist.

(4) The Auditing Board is competent to examine the financial administration of corporations under public law using State funds.

(5) The Auditing Board shall inform the State Government of the result of its examination for submission to the State Parliament and for the delivery, if need be, of comment which must be made within three weeks. The State Government shall, within three months, advise the Auditing Board of the measures taken by reason of the result of the examination.

(6) The Auditing Board shall also notify the Federal Government of the report rendered to the State Parliament together with any possible comment by the State Government.

(7) The Auditing Board shall, at the substantiated request of a State Government, carry out special measures of examination into financial administration which fall into its sphere of competence and report the result to the applicant authority.

(8) The provisions of this Article also hold good for the examination into the financial administration of the City of Vienna, the County Parliament taking the place of the State Parliament, and the Town Senate taking the place of the State Government.

Article 127a County Examination

(1) The Auditing Board shall examine the financial administration of Counties with at least 20,000 inhabitants as well as the financial administration of

endowments, funds, and institutions administered by the authorities of a County or persons or groups of persons appointed for the purpose by the authorities of a County. The examination shall extend to the arithmetical correctness, compliance with existing regulations, and the employment of thrift, efficiency, and expediency in the financial administration.

(2) The Mayor shall annually transmit to the Auditing Board and simultaneously to the State Government the budget estimates and the final budget accounts.

(3) The calculation shall also examine the financial administration of enterprises where a County with at least 20,000 inhabitants is either the sole participant or holds at least fifty per cent of the share capital together with other legal entities falling within the competence of the Auditing Board or where the County is either their sole or joint operator with other such legal entities. As regards the concept of financial participation, Article 126b (2) applies analogously. The competence of the Auditing Board also extends to enterprises of any additional category where the conditions pursuant to this paragraph exist.

(4) The Auditing Board is competent to examine the financial administration of corporations under public law using funds of a County with at least 20,000 inhabitants.

(5) The Auditing Board shall inform the Mayor of the result of its examination for submission to the County Parliament and for the delivery of possible comment which must be made within three weeks. Upon the expiry of this deadline, the Auditing Board transmits the result of the examination together with the possibly accompanying comment to the State Government which informs the State Parliament of the submission. The Mayor shall, within three months, advise the Auditing Board of the measures taken by reason of the result of the examination.

(6) The Auditing Board shall also inform the Federal Government of the result of its examination of the financial administration.

(7) The Auditing Board shall also, at the substantiated request of the competent State Government, examine in individual cases the financial administration of Counties with less than 20,000 inhabitants and inform the State Government of the result of this examination. Paragraphs (1) and (3) apply analogously.

(8) The provisions applying for the examination of the financial administration of Counties with at least 20,000 inhabitants shall apply analogously to the examination of the financial administration of County Associations.

Article 128 Auditing Law

The more detailed provisions about the establishment and activity of the Auditing Board will be laid down by Federal law.

Chapter VI Constitutional and Administrative Guarantees

Part A The Administrative Court

Article 129 Jurisdiction

The authority competent to secure the legality of all acts of public administration is the Administrative Court at Vienna.

Article 130 Cases of Illegality

(1) The Administrative Court pronounces on complaints which allege:

- a) illegality of rulings by administrative authorities;
- b) illegality in the exercise of direct administrative power and compulsion against a particular person; or
- c) breach of administrative authorities' duty to take a decision.

The Administrative Court also decides complaints against instructions received pursuant to Article 81a (4) .

(2) No illegality exists where legislation forbears from the establishment of a binding rule on an administrative authority's conduct, leaving the determination of such conduct to the authority itself, and the authority has made use of this discretion in the spirit of the law.

Article 131 Standing

(1) Complaint about illegality can be brought against the ruling of an administrative authority by:

- 1) anyone who, after exhausting all appellate stages, alleges that the ruling infringes their rights;
- 2) the competent Federal Minister in matters pertaining to Articles 11, 12, 14 (2) and (3) and 14a (3) and (4) as well as in those matters where the ruling of a State or District school board is based on a committee decision and the

parties are no longer able to contest the ruling by way of appeal; and

3) the competent State government against rulings by the Federal Minister competent in matters pertaining to the first sentence in Article 15 (5) .

(2) The Federal or State laws relating to the individual fields of administration regulate under what conditions complaints about illegality are admissible against administrative authorities' rulings in cases other than those stated in Paragraph (1).

Article 131a Infringement of Personal Rights

A party subject to the exercise of direct administrative power and compulsion can lay complaint against the alleged infringement of personal rights by the measure concerned.

Article 132 Complaint About Non-Activity

Complaint for breach of the duty to take a decision can be brought by the party who in administrative proceedings was entitled to claim fulfillment of that duty of decision.

Article 133 Excluded Matters

The following matters are excluded from the jurisdiction of the Administrative Court:

1) matters pertaining to the jurisdiction of the Constitutional Court;

2) {...};

3) patent matters;

4) matters where the final decision rests with a tribunal if, in accordance with the Federal or State law which prescribes the organization of this authority, its membership includes at least one judge, the remaining members too are in the exercise of this office not bound by any instructions, the rulings of this authority are not subject to administrative rescission or alteration, and complaint to the Administrative Court, notwithstanding the fulfillment of these conditions, is not expressly declared admissible.

Article 134 Establishment

(1) The Administrative Court consists of a President, a Vice-President, and

the requisite number of other members (tribunal presidents and Court councilors).

(2) The President, the Vice-President, and the other members of the Administrative Court are appointed by the Federal President on the proposal of the Federal Government. The Federal Government submits its recommendations, in so far as appointment of the President or Vice-President is concerned, on the basis of a recommendation listing three candidates for each vacancy submitted by the Administrative Court in plenary session.

(3) All members of the Administrative Court must have completed their studies in law and political science and for at least ten years have held a professional appointment which prescribes the completion of these studies. At least one third of the members must be qualified to hold judicial office while at least one quarter should be drawn from professional appointments in the States, whenever possible from the States' administrative service.

(4) Members of the Federal Government, a State Government, or a popular representative body cannot be members of the Administrative Court; for members of a popular representative body elected for a fixed term of legislation or office, such incompatibility continues until the expiry of that term of legislation or office even though they prematurely renounce their seat.

(5) Anyone who during the preceding four years has exercised one of the functions specified in Paragraph (4) cannot be appointed President or Vice-President of the Administrative Court.

(6) All members of the Administrative Court are professionally employed judges. The provisions of Articles 87 (1) and (2) and 88 (2) apply to them. Members of the Administrative Court are, by operation of law, put on the permanently retired list on 31 Dec of the year in which they attain their sixty fifth birthday.

Article 135 Tribunals

(1) The Administrative Court pronounces judgment through tribunals which shall be constituted by the plenary assembly from members of the Administrative Court.

(2) Business shall, for the period provided by Federal law, be allocated by the plenary assembly in advance among the tribunals.

(3) A matter devolving upon a member in accordance with this allocation may be removed from his jurisdiction only in case of his being prevented from the discharge of his responsibilities.

(4) Article 89 applies analogously to the Administrative Court.

Article 136 Standing Orders

Detailed provisions about establishment, scope, and procedure of the Administrative Court will be prescribed in a special Federal law and Standing Orders be passed on the basis of this by the plenary assembly.

Part B The Constitutional Court

Article 137 Pecuniary Claims

The Constitutional Court pronounces on pecuniary claims of the Federation, the States, the Districts, the Counties and County Associations which cannot be settled by ordinary legal process nor be liquidated by the ruling of an administrative authority.

Article 138 Conflicts of Competence

(1) The Constitutional Court also pronounces on conflicts of competence:

- a) between courts and administrative authorities;
- b) between the Administrative Court and all other courts, in particular between the Administrative Court and the Constitutional Court itself, as well as between the ordinary courts and other courts;
- c) between the States as well as between a State and the Federation.

(2) The Constitutional Court furthermore determines at the application of the Federal Government, or a State Government whether an act of legislation or execution falls into the competence of the Federation or the States.

Article 138a Competence Agreements

(1) The Constitutional Court establishes on application by the Federal Government or a State Government concerned whether an agreement within the meaning of Article 15a (1) exists and whether the obligations arising from such an agreement, save in so far as it is a matter of pecuniary claims, have been fulfilled.

(2) If it is stipulated in an agreement within the meaning of Article 15a (2), the Court also establishes on application by a State Government concerned

whether such an agreement exists and whether the obligations arising from such an agreement, save in so far as it is a matter of pecuniary claims, have been fulfilled.

Article 139 Ordinances

(1) The Constitutional Court pronounces on application by a court whether ordinances issued by a Federal or State authority are contrary to law, but ex officio in so far as the Court would have to apply such an ordinance in a pending suit. It also pronounces on application by the Federal Government whether ordinances issued by a State authority are contrary to law, and likewise on application by the County concerned whether ordinances issued by a County supervisory authority in accordance with Article 119a (6) are contrary to law. It also pronounces whether ordinances are contrary to law when an application alleges direct infringement of personal rights through such illegality in so far as the ordinance has become operative for the applicant without the delivery of a judicial decision or the issue of a ruling; Article 8 (3) applies analogously to such applications.

(2) If the litigant in a suit lodged with the Constitutional Court, entailing application of an ordinance by the Administrative Court, receives satisfaction, the proceedings initiated to examine the ordinance's legality shall nevertheless continue.

(3) The Constitutional Court may rescind an ordinance as contrary to law only to the extent that its rescission was expressly submitted or the Court would have had to apply it in the pending suit. If the Court reaches the conclusion that the whole ordinance

a) has no foundation in law;

b) was issued by an authority without competence in the matter; or

c) was published in a manner contrary to law, it shall rescind the whole ordinance as illegal. This does not apply if rescission of the whole ordinance manifestly runs contrary to the legitimate interests of the litigant who has filed an application pursuant to the last sentence in Paragraph (1) or whose suit has been the occasion for the initiation of ex officio examination proceedings into the ordinance.

(4) If the ordinance has, at the time of the Constitutional Court's delivery of its judgment, already been repealed and the proceedings were initiated ex officio or the application was filed by a court or an applicant alleging direct infringement of his personal rights through the ordinance's illegality, the Court must pronounce whether the ordinance contravened the law. Paragraph

(3) applies analogously.

(5) The judgment by the Constitutional Court which rescinds an ordinance as contrary to law imposes on the highest competent authority in the Federation or State the obligation to publish the rescission without delay. This applies analogously in the case of a pronouncement pursuant to Paragraph (4) above. The rescission enters into force on the day of publication if the Court does not set a deadline, which may not exceed six months or, if legal dispositions are necessary, a year, for the rescission.

(6) If an ordinance has been rescinded on the score of illegality or if the Constitutional Court has pursuant to Paragraph (4) pronounced an ordinance to be contrary to law, all courts and administrative authorities are bound by the Court's decision. The ordinance shall, however, continue to apply to the circumstances effected before the rescission, the case in point excepted, unless the Court in its rescissory judgment decides otherwise. If the Court has in its rescissory judgment set a deadline pursuant to Paragraph (5), the ordinance shall apply to all the circumstances effected, the case in point excepted, till the expiry of this deadline.

Article 139a Legal Norms

The Constitutional Court pronounces on application by a court whether in the re-publication of a legal norm the limits of the authority conferred were transcended; ex officio, in so far as the re-publication of the legal norm constitutes the prerequisite to a judgment by the Court itself; also on application by a State Government, in the case of legal norms re-published by the Federation. Likewise on application by the Federal Government in the case of legal norms republished by a State. It pronounces furthermore whether in the re-publication of a legal norm the limits of the authority conferred were transcended when an application alleges direct infringement of personal rights in so far as the republished legal norm has become operative against the applicant without the delivery of a judicial decision or the issue of a ruling. Article 59 (2), (3) and (5) as well as Article 139 (2) to (6) apply analogously.

Article 140 Laws

(1) The Constitutional Court pronounces on application by the Administrative Court, the Supreme Court, or a competent appellate court whether a Federal or State law is unconstitutional, but ex officio in so far as the Court would have to apply such a law in a pending suit. It pronounces also on application by the Federal Government whether State laws are unconstitutional and likewise on application by a State Government or by one third of the House of

Representatives' members whether Federal laws are unconstitutional. A State constitutional law can provide that such a right of application as regards the unconstitutionality of State laws lies with one third of the State Parliament's members. The Court also pronounces whether laws are unconstitutional when an application alleges direct infringement of personal rights through such unconstitutionality in so far as the law has become operative for the applicant without the delivery of a judicial decision or the issue of a ruling. Article 89 (3) applies analogously to such applications.

(2) If the litigant in a suit lodged with the Constitutional Court, entailing application of a law by the Court receives satisfaction, the proceedings initiated to examine the law's constitutionality shall nevertheless continue.

(3) The Constitutional Court may rescind a law as unconstitutional only to the extent that its rescission was expressly submitted or the Court would have to apply the law in the suit pending with it. If, however, the Court concludes that the whole law was enacted by a legislative authority unqualified in accordance with the allocation of competence or published in an unconstitutional manner, it shall rescind the whole law as unconstitutional. This does not apply if rescission of the whole law manifestly runs contrary to the legitimate interests of the litigant who has filed an application pursuant to the last sentence in Paragraph (1) or whose suit has been the occasion for the initiation of ex officio examination proceedings into the law.

(4) If the law has, at the time of the Constitutional Court's delivery of its judgment, already been repealed and the proceedings were initiated ex officio or the application filed by a court or an applicant alleging direct infringement of personal rights through the law's unconstitutionality, the Court must pronounce whether the law was unconstitutional. Paragraph (3) applies analogously.

(5) The judgment by the Constitutional Court which rescinds a law as unconstitutional imposes on the Federal Chancellor or the competent State-Governor the obligation to publish the rescission without delay. This applies analogously in the case of a pronouncement pursuant to Paragraph (4). The rescission enters into force on the day of publication if the Court does not set a deadline for the rescission. This deadline may not exceed one year.

(6) If a law is rescinded as unconstitutional by a judgment of the Constitutional Court, the legal provisions rescinded by the law which the Court has pronounced unconstitutional become effective again, unless the judgment pronounces otherwise, on the day of entry into force of the rescission. The publication on the rescission of the law shall also announce whether and which legal provisions again enter into force.

(7) If a law has been rescinded on the score of unconstitutionality or if the Constitutional Court has, pursuant to Paragraph (4), pronounced a law unconstitutional, all courts and administrative authorities are bound by the Court's decision. The law shall, however, continue to apply to the circumstances effected before the rescission, the case in point excepted, unless the Court in its rescissory judgment decides otherwise. If the Court has in its rescissory judgment set a deadline pursuant to Paragraph (5), the law shall apply to all the circumstances effected, the case in point excepted, till the expiry of this deadline.

Article 140a Treaties

(1) Article 140 shall apply to treaties concluded pursuant to Article 50 with the sanction of the House of Representatives and correspondingly Article 139 to all other treaties with the provision that the authorities competent for their execution shall, from the day of the judgment's publication, not apply those which the Court establishes as being contrary to law or unconstitutional unless it determines a deadline prior to which such a treaty shall continue to be applied. The deadline may not exceed two years in the case of treaties specified in Article 50 and one year in the case of all others.

(2) If the Constitutional Court establishes that a treaty whose fulfillment requires the issue of laws or ordinances is contrary to law or unconstitutional, the effect of the vote in accordance with Article 50 (2) or of the ordinance in accordance with Article 65 (1) second sentence expires.

Article 141 Elections

(1) The Constitutional Court pronounces upon:

a) challenges to the election of the Federal President and elections to the popular representative bodies or the constituent authorities (representative bodies) of statutory professional associations;

b) challenges to elections to a State Government and to local authorities entrusted with executive power;

c) application by a popular representative body for a loss of seat by one of its members;

d) application by a constituent authority (representative body) of a statutory professional associations for a loss of seat by one of the members of such an authority;

e) the challenge to rulings whereby the loss of a seat in a popular representative body, in a local authority entrusted with executive power or in a constituent authority (representative body) of a statutory professional association has been enunciated, in so far as laws of the Federation or States governing elections provide for declaration of a loss of seat by the ruling of an administrative authority, and after all stages of legal remedy have been exhausted.

f) The challenge (application) can be based on the alleged illegality of the electoral procedure or on a reason provided by law for the loss of membership in a popular representative body, in a local authority entrusted with executive power, or in a constituent authority (representative body) of a statutory professional association. The Court shall allow an electoral challenge if the alleged illegality has been proved and was of influence on the election result. In the proceedings before the administrative authorities, the popular representative body or statutory professional association has litigant status.

(2) If a challenge pursuant to Paragraph (1) (a) is allowed and it thereby becomes necessary to hold the House of Representatives or a State Parliament election in whole or in part again, the representative body's members concerned lose their seat at the time when it is assumed by those elected at the ballot which has to be held within a hundred days after delivery of the Constitutional Court's decision.

(3) The premise for a decision by the Constitutional Court in challenges to the result of initiatives or referenda will be prescribed by Federal law. How long, in view of the possibility of such a challenge, it is necessary to retard publication of the law about which a referendum took place, can also be enacted by Federal law.

Article 142 Liability of Officers

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

(2) Suit can be brought:

a) against the Federal President, for contravention of the Federal Constitution: by a vote of the Federal Assembly;

b) against members of the Federal Government and the authorities placed with regard to responsibility on an equal footing with them, for contravention of the law: by a vote of the House of Representatives;

- c) against members of a State Government and the authorities placed by the present law or the State constitution with regard to responsibility on an equal footing with them, for contravention of the law: by a vote of the competent State Parliament;
- d) against a State-Governor, his deputy (Article 105 (1)) or a member of the State Government (Article 103 (2) and (3)) for contravention of the law as well as for non-compliance with ordinances or other directives (instructions) of the Federation in matters pertaining to the indirect Federal administration, in the case of a member of the State Government also with regard to instructions from the State-Governor in these matters: by a vote of the Federal Government;
- e) against the authorities of the Federal capital, Vienna, in so far as within its autonomous sphere of competence they perform functions from the domain of the Federal executive power, for contravention of the law: by a vote of the Federal Government;
- f) against a State-Governor, for non-compliance with an instruction pursuant to Article 14 (8) by a vote of the Federal Government;
- g) against a president or executive president of a State school board, for contravention of the law as well as for non-compliance with ordinances or other directives (instructions) of the Federation: by a vote of the Federal Government.
- (3) If, pursuant to Paragraph (2) (d), the Federal Government brings a suit only against a State-Governor or his deputy and it is shown that another member of the State Government in accordance with Article 103 (2) concerned with matters pertaining to the indirect Federal administration is guilty of an offence within the meaning of Paragraph (2) (d), the Federal Government can at any time pending the passing of judgment widen its suit to include this member of the State Government.
- (4) The condemnation by the Constitutional Court shall pronounce a forfeiture of office and, in particularly aggravating circumstances, also a temporary forfeiture of political rights. In the case of minor legal contraventions in the instances mentioned in Paragraph (2) (d), (f), and (g) the Court can confine itself to the statement that the law has been contravened. From forfeiture of the office of president of the State school board ensues forfeiture of the office with which pursuant to Article 81a (3) (b) it is linked.

(5) The Federal President can avail himself of the right vested in him in accordance with Article 65 (2) (c) in the cases under Paragraph (2) (a), (b), and (c) only on the request of the representative body which has voted for the filing of the suit, in cases under Sub-Paragraphs (d), (f), and (g) only on the request of the Federal Government, and in all cases only with the approval of the defendant.

Article 143 Criminal Liability of Officers

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

Article 144 Administrative Jurisdiction

(1) The Constitutional Court pronounces on rulings by administrative authorities in so far as the applicant alleges an infringement by the ruling of a constitutionally guaranteed right or the infringement of personal rights on the score of an illegal ordinance, an unconstitutional law, or an unlawful treaty. On the same premises, the Court likewise pronounces on complaints against the exercise of direct administrative power and compulsion against a particular individual. The complaint can only be filed after all other stages of legal remedy, in so far as such come into consideration, have been exhausted.

(2) The Constitutional Court can, before the proceedings, decide to reject a hearing of the complaint if it has no reasonable prospect of success. The rejection of the hearing is inadmissible if it concerns a case that according to Article 133 is barred 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 infringed by the challenged ruling or the exercises of direct administrative power and compulsion, and if it does not concern a case that in accordance with Article 133 is barred from the competence of the Administrative Court, the Court shall, on the request of the applicant, at the same time as it rejects the plea transfer the complaint to the Administrative Court for decision whether the applicant, by the ruling or the exercise of direct administrative power and compulsion, sustained the infringement of any other right. This applies analogously in the case of decisions in accordance with Paragraph (2).

Article 145 International Law

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

Article 146 Enforcement

(1) The enforcement of judgments pronounced by the Constitutional Court on claims made in accordance with Article 137 is implemented by the ordinary courts.

(2) The enforcement of other judgments by the Constitutional Court is incumbent on the Federal President. Implementation shall, in accordance with his instructions, lie with the Federation or States authorities, including the Federal Army, appointed at his discretion for the purpose. The request to the Federal President for the enforcement of such judgments shall be made by the Constitutional Court. The aforementioned instructions by the Federal President require, if it is a matter of enforcements against the Federation or Federal authorities, no countersignature in accordance with Article 67 .

Article 147 Establishment

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

(2) The President, the Vice-President, six additional members, and three substitute members are appointed by the Federal President on the recommendation of the Federal Government; these members shall be selected from among judges, administrative officials, and professors holding a chair in law. The remaining six members and three substitute members are appointed by the Federal President on the basis of recommendations listing three candidates for each vacancy, the House of Representatives submitting those for three members and two substitute members and the Senate those for three members and one substitute member. Three members and two substitute members must have their domicile outside the Federal capital, Vienna. Administrative officials who are appointed members of the Constitutional Court shall, in so far and for as long as they are not superannuated, be freed from all official duties.

(3) The President, the Vice-President, and the other members and substitute members must have completed their studies in law and political science and for at least ten years have held a professional appointment which prescribes the completion of these studies.

(4) The following cannot belong to the Constitutional Court:

members of the Federal Government or a State Government, members of the House of Representatives, the Senate, or any other popular representative body; for members of these representative bodies who have been elected for a fixed term of legislation or office such incompatibility continues until the expiry of that term of legislation or office. Finally, persons who are under employment of or hold office in a political party cannot belong to the Constitutional Court.

(5) Anyone who, during the preceding four years, has exercised one of the functions specified in Paragraph (4), cannot be appointed President or Vice-President of the Constitutional Court.

(6) Articles 87 (1) and (2) , 88 (2) apply to members of the Constitutional Court; detailed provisions will be prescribed in the Federal law to be promulgated pursuant to Article 148 . The 31 Dec of the year in which a judge completes his seventieth year of life is fixed as the age limit on whose attainment his term of office ends.

(7) If a member or substitute member disregards without satisfactory excuse three successive requests to attend a hearing of the Constitutional Court, the Court shall formally establish the fact after listening to his testimony. Establishment of the fact entails loss of membership or the status of substitute membership.

Article 148 Organizational Law

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

Chapter VII Ombudsmen Council

Article 148a Standing, Investigation, Independence

(1) Everyone can lodge complaint with the Ombudsmen Council against alleged maladministration by the Federation, including its activity as a holder of private rights, provided that they are affected by such maladministration and in so far as they do not or no longer have recourse to legal remedy. All such complaints must be investigated by the Ombudsmen Council. The complainant shall be informed of the investigation's outcome and what action, if necessary, has been taken.

(2) The Ombudsmen Council is ex officio entitled to investigate its suspicions of maladministration by the Federation including its activity as a holder of

private rights.

(3) The Ombudsmen Council is independent in the exercise of its authority.

Article 148b State Support, Secrecy

(1) All Federal, State, and County authorities shall support the Ombudsmen Council in the performance of its tasks, allow it inspection of its records, and upon request furnish the information required. Official secrecy is inoperative in the case of the Ombudsmen Council.

(2) The Ombudsmen Council must observe official secrecy to the same degree as the authority whom it has approached in the fulfillment of its tasks. The Ombudsmen Council is however bound by the observation of official secrecy in its reports to the House of Representatives only in so far as this is requisite on behalf of the interest of the parties concerned or of national security.

Article 148c Recommendations

The Ombudsmen Council can issue to the authorities entrusted with the Federation's highest administrative business recommendations on measures to be taken in or by reason of a particular case. The authority concerned must within a deadline to be settled by Federal law either conform to these recommendations and inform the Ombudsmen Council accordingly or state in writing why the recommendations have not been complied with.

Article 148d Annual Report

The Ombudsmen Council shall annually render the House of Representatives a report on its activity.

Article 148e Court Application

On application by the Ombudsmen Council, the Constitutional Court pronounces on the illegality or otherwise of ordinances by a Federal authority.

Article 148f Ruling on Interpretation

If differences of opinion arise between the Ombudsmen Council and the Federal Government or a Federal Minister on the interpretation of legal provisions, the Constitutional Court, on application by the Federal Government or the Ombudsmen Council, decides the matter in closed proceedings.

Article 148g Establishment

(1) The Ombudsmen Council has its seat in Vienna and consists of three members, one of whom acts in turn as chairman. The term of office lasts six years. Reelection of the Ombudsmen Council's members more than once is inadmissible.

(2) Ombudsmen Council members are elected by the House of Representatives on the basis of a joint recommendation drawn up by the Main Committee in the presence of at least half its members. Each of the three parties with the largest number of votes in the House of Representatives is entitled to nominate one member for this recommendation. The members of the Ombudsmen Council render an affirmation to the Federal President before their assumption of office.

(3) The Ombudsmen Council chairmanship rotates annually between the members in the sequence of the voting strength possessed by the parties who have nominated them. This sequence remains unchanged during the Ombudsmen Council's term of office.

(4) Should a Ombudsmen Council member retire prematurely, the party represented in the House of Representatives who nominated this member shall nominate a new member. The new election shall pursuant to Paragraph (2) be operative for the remaining term of office.

(5) Ombudsmen Council members must be eligible for the House of Representatives; during their service in office, they may belong neither to the Federal Government nor to a State government nor to any popular representative body and they may not practice any other profession.

Article 148h Appointment

(1) Ombudsmen Council officials are appointed by the Federal President on the recommendation and with the countersignature of the Ombudsmen Council chairman. The Federal President can however authorize him to appoint officials in certain categories. Auxiliary personnel is appointed by the chairman who is to this extent the highest administrative authority and exercises these powers in his own right.

(2) The Federation's service prerogative with regard to Ombudsmen Council employees is exercised by the Ombudsmen Council chairman.

(3) The Ombudsmen Council determines its Standing Orders and an allocation of business that regulates which tasks shall be autonomously performed by its members. The adoption of the Standing Orders and the allocation of business

requires the unanimous vote of the Ombudsmen Council's members.

Article 148i State Matters

(1) The States can by State constitutional law declare the Ombudsmen Council competent also in the sphere of the particular State's administration. In such case Articles 148e and 148f shall apply analogously.

(2) If States create agencies in the sphere of State administration with tasks similar to the Ombudsmen Council, State constitutional law can prescribe a provision corresponding to Articles 148e and 148f .

Article 148j Ombudsmen Law

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

Chapter VIII Final Provisions

Article 149 Old Laws

(1) In addition to the present law, the following laws, with the modifications necessitated by this law, shall, within the meaning of Article 44 (1) , be regarded as constitutional law:

Basic Law of 21 Dec 1867 on the general rights of nationals in the kingdoms and States represented in the Reichs' Congress;

Law of 27 Oct 1862 on protection of personal liberty;

Law of 27 Oct 1862 on protection of the rights of the home;

Resolution of the Provisional National Assembly of 30 Oct 1918;

Law of 3 April 1919 respecting the banishment and expropriation of property of the House of Habsburg-Lorraine;

Law of 3 April 1919 on the abolition of the nobility, the secular orders of chivalry, male and female, and of certain titles and dignities;

Law of 8 May 1919 on the coat of arms and seal of state of the Republic of German-Austria, with the modifications effected by Arts. 2, 5, and 6 of the law of 21 Oct 1919;

Section V of Part III of the Treaty of Saint-Germain of 10 Sep 1919.

(2) Article 20 of the Basic Law of 21 Dec 1867 as well as the Law of 5 May 1869 issued on the basis of this Article are repealed.

Article 150 Transitional Law

The transition to the Federal Constitution introduced by this law will be

prescribed in a special law entering into force simultaneously with the present law.

Article 151 Responsibility

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

Article 152 {...}



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