Federal Constitutional Law

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Federal Constitutional Law

Chapter I

General Provisions; European Union

A. General Provisions

Art. 1. Austria is a democratic republic. Its law emanates from the people.

Art. 2. (1) Austria is a federal state.

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

Art. 3. (1) The Federal territory comprises the territories of the Federal Laender.

(2) A change in the Federal territory, which is at the same time a change in Land territory, just as the change of a Land boundary within Federal territory, can - apart from peace treaties - ensue only from corresponding constitutional laws of the Federation and the Land whose territory undergoes change.

Art. 4. (1) The Federal territory is a uniform currency, economic and customs area.

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

Art. 5. (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.

Art. 6. (1) For the Republic of Austria there prevails a uniform nationality.

(2) Nationals are citizens of the Land where they have their principal domicile; Land laws can however stipulate that also nationals who have a domicile, but not their principal domicile, in the Land are citizens of that Land.

(3) 'A person's principal domicile is established in the place where he has settled with the intention, provable or emerging from the circumstances, of setting up there the centre of his relations of life. If this requirement is, on the basis of an overall consideration of a person's professional, economic and social relations of life, met by more than one domicile, this person has to designate as his principal domicile the one which he has the closest connection to.

Art. 7. (1) All nationals (Austrian citizens) are equal before the law. Privileges based upon birth, sex, estate, class or religion are excluded. No one shall be discriminated against because of his disability. The Republic (Federation, Laender and municipalities) commits itself to ensuring the equal treatment of disabled and non-disabled persons in all spheres of every-day life.

(2) The Federation, Laender and municipalities subscribe to the de-facto equality of men and women. Measures to promote factual equality of women and men, particularly by eliminating actually existing inequalities, are admissible.

(3) Official designations can be applied in such a way as to indicate the sex of the officer holder. The same holds good for titles, academic degrees and descriptions of occupations.

(4) Public employees, including members of the Federal Army, are guaranteed the unrestricted exercise of their political rights.

Art. 8. German is the official language of the Republic without prejudice to the rights provided by Federal law for linguistic minorities.

(2) The Republic (the Federation, Laender and municipalities) is committed to its linguistic and cultural diversity which has evolved in the course of time and finds its expression in the autochthonous ethnic groups. The language and culture, continued existence and protection of these ethnic groups shall be respected, safeguarded and promoted.

Art. 8a. (1) The colours of the Republic of Austria are red-white-red. The flag consists of three identically broad horizontal stripes of which the intermediate is white, the upper and the lower are red.

(2) The coat of arms of the Republic of Austria (the Federal coat of arms) consists of an unfettered, single-headed, black, gilt-armed and red-tongued eagle on whose breast is imposed a red shield intersected by a silver crosspiece. On its head the eagle bears a mural crown with three visible merlons.

A sundered iron chain rings both talons. The right holds a golden sickle with inward turned blade, the left a golden hammer.

(3) Detailed provisions, in particular as to safeguard of the colours, the coat of arms, and the seal of the Republic, are settled by Federal law.

Art. 9. (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 Art. 50 para. 1 can transfer specific Federal competences 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.

Art. 9a. (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 aimed 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 fulfilment of compulsory military service and are exonerated therefrom must perform an alternative

of the municipal constabularies; settlement of the conditions pertaining to the armament of the protective forces and their right to make use of their weapons.

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

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

17. population policy in so far as it concerns the grant of children's allowances and the creation of burden equalizationon behalf of families;

18. elections to the European Parliament.

(2) In Federal laws on the right of succession to undivided farm estate as well as in Federal laws promulgated in accordance with para. 1 sub-para. 10 above Land legislatures can be empowered to issue implementing provisions with respect to individual provisions which must be specifically designated. The provisions of Art. 15 para. 6 shall be analogously applied to these Land laws. Execution of the implementing laws issued in such cases lies with the Federation, but the enabling ordinances, in so far as they relate to the implementing provisions of the Land law, need foregoing agreement with the Land government concerned.

(3) The Federation must allow the Laender opportunity to present their views before its conclusion of treaties which within the meaning of Art. 16 render necessary enabling measures or affect the autonomous sphere of competence of the Laender in another way.

Art. 11. (1) In the following matters legislation is the business of the Federation, execution that of the Laender:

1. nationality;

2. professional associations in so far as they do not fall under Art. 10, but with the exception of those in the field of agriculture and forestry as well as in the field of alpine guidance and skiing instruction and in that of sport instruction falling within Laender autonomous competence;

3. social housing affairs except for the promotion of domestic dwelling construction and domestic rehabilitation;

4. highway police;

5. sanitation;

6. inland shipping as regards shipping licences, shipping facilities and compulsory measures pertaining to such facilities in so far as it does not apply to the Danube, Lake Constance, Lake Neusiedl, and boundary stretches of other frontier waters; river and navigation police on inland waters with the exception of the Danube, Lake Constance, Lake Neusiedl, and boundary stretches of other frontier waters;

7. environmental impact assessment for projects relating to these matters where material effects on the environment are to be anticipated; in so far as a need for the issue of uniform regulations is considered to exist, the approval of such projects.

(2) In so far as a need for the issue of uniform regulations is considered to exist, the administrative procedure, the general provisions of administrative penal law, the administrative penal procedure and

the administrative execution also in matters where legislation lies with the Laender, in particular too in matters pertaining to taxation, are prescribed by Federal law; divergent regulations can be made in Federal or Laender laws settling the individual spheres of administration only when they are requisite for regularization of the matter in hand.

(3) Enabling ordinances to the Federal laws promulgated in accordance with paras. 1 and 2 above shall be issued, save as otherwise provided in these laws, by the Federation. The manner of publication for enabling ordinances whose issue by the Laender in matters concerning para. 1, subparas. 4 and 6 above is empowered by Federal law can be prescribed by Federal law.

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

(5) Federal laws can lay down uniform output limits for atmospheric pollutants in so far as a need for the issue of uniform regulations exists. These may not be exceeded in the Federal and Land regulations prescribed for the individual sectors of the administration.

(6) In so far as a need for the issue of uniform regulations is considered to exist, Federal law shall likewise prescribe the citizens participation procedure for projects to be governed by Federal law, the participation in the administrative procedures subsequent to a citizens' participation procedure, and consideration of the results of the citizens' participation procedure at the time of the issue of the requisite permissions for the projects in question as well as the approval of the projects specified in Art. 10 para. 1 sub-para. 9. In respect of the execution of these regulations para. 4 applies.

(7) In matters relating to para. 1 sub-para. 7 the decision after exhaustion of all appeal stages in the sphere of execution of each Land lies with the independent environment tribunal. The latter moreover is within the meaning of the regulations prescribing the administrative procedure the relevant senior authority concerned. The independent environment tribunal consists of the chairmen, judges and other legally versed members and will be constituted at the competent Federal Ministry. The establishment, the duties, and the procedure of the tribunal are prescribed by Federal law. Its decisions are not subject to repeal or amendment by way of appeal; complaint to the Administrative Court is admissible.

(8) If a project pursuant to para. 1 sub-para. 7 encompasses several Laender, the participant Laender shall in the first instance proceed by mutual agreement. If a mutually agreed decision is not issued within 18 months, competence passes at the request of a Land or a party concerned in the matter to the independent environment tribunal.

(9) In the matters specified in para. 1 sub-para. 7 the following powers are vested in the Federal Government and in the individual Federal ministries as against a Land Government:

1. the power to inspect via Federal agencies documents of the Land authorities;

2. the power to demand the transmission of reports respecting the execution of laws and ordinances issued by the Federation;

3. the power to demand for the preparation of the issue of laws and ordinances by the Federation all information necessary respecting execution;

4. the power in certain instances to demand information and the presentation of documents in so far as this is necessary for the exercise of other powers.

Art. 12. (1) In the following matters legislation as regards principles is the business of the Federation, the issue of implementing laws and execution the business of the Laender:

1. social welfare; population policy in so far as it does not fall under Art. 10; public social and welfare establishments; maternity, infant and adolescent welfare; hospitals and nursing homes; requirements to

be imposed for health reasons on health resorts, sanatoria, and health establishments; natural curative resources;

2. public institutions for the adjustment of disputes out of court;

3. land reform, in particular land consolidation measures and resettlement;

4. the protection of plants against diseases and pests;

5. matters pertaining to electric power in so far as they do not fall under Art. 10;

6. labour legislation and the protection of workers and employees in so far as it is a matter of workers and employees engaged in agriculture and forestry.

(2) In matters pertaining to land reform the final decision and that at Land level lies with tribunals composed of a chairman and judges, administrative officials, and experts; the tribunal qualified to pronounce final judgment will be constituted 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 pertaining to 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 Land jurisdiction is inadmissible.

(3) If and inasmuch as the rulings of Land authorities in matters pertaining to electric power deviate from one another or a Land Government was the sole competent Land 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 Land authorities are invalidated.

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

Art. 13. (1) The competences of the Federation and the Laender in the field of taxation will be prescribed in a special Federal constitutional law ("Constitutional Finance Law").

(2) The Federation, the Laender, and the municipalities must aim at the securement of an overall balance in the conduct of their economic affairs.

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

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

(3) In the following matters legislation as regards principles is the business of the Federation, the issue of implementing laws and execution the business of the Laender:

a) composition and disposition, including their members' appointment and remuneration, of the boards to be constituted in the Laender 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;

d) professional employment qualifications for kindergarten teachers and educational assistants to be employed by the Laender, municipalities, or municipal associations at the centres and student hostels provided exclusively or mainly for pupils of compulsory schools.

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

a) competence of antherities, on the basis of laws promulgated pursuant to para. 2 above, to exercise the service prerogative over teachers at public compulsory schools; the Laender laws shall provide that the Federal school authorities in the Laender and political Bezirke 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 centres system.

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

a) public demonstration schools, demonstration kindergartens, demonstration centres 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-para. a above;

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

(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 pertaining to the establishment, maintenance and dissolution of public schools are the business of the Federation. The Land or, according to the statutory provisions, the municipality or a municipal association is the authority so required by law in so far as legislation or implementing legislation and execution in matters pertaining to establishment, maintenance and dissolution of public schools are the business of the Land. Admission to public school is open to all without distinction of birth, sex, race, status, class, language and religion, and in other respects within the limits of the statutory requirements. The same applies analogously to kindergartens, centres and student hostels.

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

(8) The Federation is entitled, in matters which in accordance with paras. 2 and 3 above appertain to execution by the Laender, 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 Governor can be instructed (Art. 20 para. 1) to redress the shortcomings within an appropriate deadline. The Governor must see to the redress of the shortcomings according to the statutory provisions and, to effect the execution of such instructions, is bound also to employ the means at his disposal in his capacity as an authority acting on behalf of the Land in its autonomous sphere of competence.

(9) The general rules in Arts. 10 and 21 as to the distribution of competences for legislation and execution regarding conditions of service with the Federation, the Laender, the municipalities and the municipal associations apply in respect of the service code for teachers, educational assistants and kindergarten teachers, save as provided otherwise by the preceding paragraphs. The same applies to the staff representation rights of teachers, educational assistants, and kindergarten teachers.

(10) In matters pertaining to the school authorities of the Federation in the Laender and political districts, compulsory schooling, school organization, private schools, and the relationship between school and the Churches (of various denominations) including religious instruction at school, the National Council, in so far as matters pertaining to universities and fine arts academies are not concerned, can vote Federal legislation only in the presence of at least half the members and by a two thirds majority of the votes cast. The same applies to the ratification of treaties negotiated on these matters and which fall into the category specified in Art. 50.
(11) (Repealed)

Art. 14a. (1) Save as provided otherwise in the following paragraphs, legislation and execution are the business of the Laender with regard to agricultural and forestry schooling as well as with regard to agricultural and forestry education in matters pertaining to student hostels and in matters pertaining to the service code for and staff representation rights of teachers and educational assistants at the schools and student hostels falling under this Article. Matters pertaining to 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-paras. a and b above 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-paras. a to c above;

e) service code for and staff representational rights of the teachers and educational assistants in the establishments mentioned in sub-paras. a to d above;

f) subsidies for staff expenditure of the denominational agricultural and forestry schools;

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 para. 2 above, legislation is the business of the Federation, execution the business of the Laender in matters of

a) religious instruction;

b) the service code for and staff representation rights of teachers at public agricultural and forestry vocational schools and technical colleges and of educational assistants at publicly maintained student hostels exclusively or mainly designated for pupils of these schools, excepting however matters of official competence for the exercise of the service prerogative over these teachers and educational assistants.

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

(4) Legislation as regards principles is the business of the Federation, the issue of implementing laws and execution is the business of the Laender

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

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

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

d) as regards the organization and competence of advisory boards who in the matters pertaining to para. 1 above participate in the execution by the Laender.

(5) The establishment of the agricultural and forestry technical colleges and research institutes specified under para. 2 sub-paras. c and g above is only admissible if the Land government of the Land 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 paras. 3 and 4 appertains to the Laender.

(7) The provisions of Art. 14 paras. 6, 7, and 9 analogously also hold good for the spheres specified

(8) Federal laws on matters pursuant to para. 4 above can be passed by the National Council only in the presence of at least half the members and by a two thirds majority of the votes cast.

Art. 14b. (1) Legislation regarding public procurement, to the extent not covered by para. 3, is business of the Federation.

(2) Execution regarding matters of para 1 is

1. Federal business regarding

a) the award of contracts by the Federation;
b) the award of contracts by endowments, funds and institutions as defined in Art. 126b para. 1;

c) the award of contracts by enterprises as defined in Art. 126b para. 2, if the financial participation or the influence of the Federation, secured by other financial or other economic or organizational measures, is at least equivalent to the financial participation or the influence of the Laender;

d) the award of contracts by autonomous administrative corporate bodies established under Federal law;

e) the award of contracts by legal entities not specified in subparas a through d and para 2 subparas a through d,

aa) financed by the Federation, provided that the share of finance through the Federation equals at least that of the Laender,

bb) subject to the supervision of the Federation as far as their management is concerned, to the extent that the award is not subject to subpara aa or para 2 subpara e;

cc) the administrative, managerial or supervisory bodies which consist of members appointed by the Federation, provided that the Federation has appointed at least the same number of members as the Laender, to the extent that the award is not subject to subparas aa or bb or para 2 subpara e lit aa or bb;
f) the joint award of contracts by the Federation and the Laender, provided that the Federation's share in the estimated total order value is at least equivalent to the total of the Laender shares;

g) the award of contracts by legal entities not contained in subparas a through f and para 2;

2. Laender business with regard to

a) the award of contracts by one of the Laender, the municipalities and the municipality associations;

b) the award of contracts by endowments, funds and institutions in terms of Art. 127 para 1 and Art. 127 a paras 1 and 8;

c) the award of contracts by enterprises in terms of Art 126b para 2, to the extent that it is not subject to para 1 subpara c, as well as the award of contracts by enterprises in terms of Art. 127 para 3 and Art 127a paras 3 and 8;

d) the award of contracts by self governing corporate bodies instituted by Laender legislation;

e) the award of contracts by legal entities not contained in para 1 subparas a through d;
aa) financed by one of the Laender or jointly with the Federation or other Laender, to the extent the award is not subject to para 1 subpara e sublit aa;

bb) subject to Laender supervision of their management, to the extent that the award is not subject to para 1 subpara e sublit aa or bb or sublit aa;

cc) the administrative, management or supervising bodies which consist of members appointed by one of the Laender, to the extent the award is not subject to para 1 subpara e sublit aa through cc or sublit aa or bb;

f) the joint award of contracts by the Federation and the Laender, to the extent it is not subject to para 1 subpara f, as well as the joint award of contracts by more than one of the Laender.

Irrespective of the size of their population, municipalities are considered legal entities which in terms of para 1 subparas b and c and para 2 subparas b and c are subject to the jurisdiction of the Federal Board of Audit. Within the scope of para 1 subparas b,c,e and f, purchasers in terms of para 1 are considered to belong to the Federation and purchasers in terms of para 2 are considered to be part of the respective Laender. If in terms of para 2 subparas c,e or f more than one of the Laender is involved, the jurisdiction for execution shall depend on the relative weight of the characteristic which in terms of the respective subpara(sublitera) of para 1 is or would be relevant for the subdivision of the jurisdiction for execution between the Federation and the Laender, furthermore on purchaser's domicile, on the domicile (main residence) of the awarding authority, if however it is still not possible to define the jurisdiction, it shall rest with such Land which at the time of institution of the award procedure holds the chair or most recently held the chair of the Federal Council.

(3) Business of the Laender is the legislation and execution in matters of review within the scope of contract awards by purchasers in terms of para 2 subpara 2;

(4) The Federation shall involve the Laender in the preparation of draft bills regarding matters of para 1. Federal acts adopted in accordance with para 1 which regulate matters to be executed by Laender are only allowed to be promulgated with previous consent of the Laender.

(5) Unless provided differently in the respective acts, the implementing regulations to the Federal acts adopted under para 1 are to be issued by the Federation. Para 4 applies to such regulations accordingly.

(6) The administrative authorities having jurisdiction to carry out review proceedings may also be called upon to review the supreme bodies of execution named in Art 19 para 1, the municipalities and municipality associations, as well as by private persons.

Art. 15. (1) Insofar as a matter is not expressly delegated by the Federal Constitution to the legislation oder also the execution of the Federation, it remains within the autonomous sphere of competence of the Laender.

(2) In matters of local public security police, that is that part of public security police which exclusively or preponderantly affects the interests of the local community personified by the municipality and which, like preservation of public decency and defence against the improper creation of noise, can suitably be undertaken by the community within its local boundaries, the Federation has authority to supervise the

conduct of these matters by the municipality and to redress any observed shortcomings by instructions to the Governor. Inspectoral authorities of the Federation can for this purpose be delegated to the municipality; in each and every case the Governor shall be informed hereof.

(3) The provisions of Laender legislation in matters pertaining to theatres and cinemas, public shows, performances and entertainments shall assign to the Federal Police Directorates within their territorial 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 licences as stipulated by such legislation.

(4) To what extent the Federal Police Directorates shall within their territorial sphere of competence be assigned executive responsibility in the domain of traffic police, except the local traffic police (Art. 118 para. 3 sub-para. 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 Land concerned.

(5) In so far as executive acts in building matters concern Federal-owned buildings which serve public purposes, like accomodation for Federal authorities and offices or public institutions including herein also 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 Governor. Nevertheless determination of alignment and level in these cases too falls under the executive power of the Laender.

(6) In so far as legislation as regards principles has been reserved to the Federation, detailed implementation within the framework laid down by Federal law is incumbent on Land legislatures. The Federal law can fix for the issue of the implementing legislation a deadline which may not, without the consent of the Federal Council, be shorter than six months and not longer than one year. If a Land does not observe this deadline, competence for the issue of the implementing legislation passes from that Land to the Federation. As soon as the Land has issued the implementing legislation, the Federal implementing legislation becomes invalidated. If the Federation has not established any principles, Land legislation is free to settle such matters. As soon as the Federation has established principles, the provisions of Land legislation shall within the deadline to be appointed by Federal law be adjusted to the legislation as regards principles.

(7) If an executive act on the part of one Land in matters covered by Arts. 11, 12, 14 paras. 2 und 3, and 14a paras. 3 und 4 is to be effective in several Laender, the participant Laender 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 Laender or one of the parties participation in the matter, to the competent Federal Ministry. The details can be settled by Federal laws promulgated under Arts. 11, 12, 14 paras. 2 und 3, and 14a paras. 3 und 4.

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

(9) Within the field of their legislation, the Laender are competent to adopt the provisions necessary for the regulation of subject also in the field of criminal and civil law.

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

Art. 15a. (1) The Federation and the Laender may conclude agreements among themselves about matters within their respective sphere of competence. The conclusion of such agreements in the name of the Federation is, depending on the subject, incumbent on the Federal Government or 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 National Council. Art. 50 para. 3 shall by analogy be applied to such resolutions of the National Council; they shall be published in the Federal Law Gazette.

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

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

Art. 16. (1) In matters within their own sphere of competence the Laender can conclude treaties with states, or their constituent states, bordering on Austria.

(2) The Governor must inform the Federal Government before the initiation of negotiations about such a treaty. The Federal Government's approval must be obtained by the Governor before their conclusion. The approval is deemed to have been given if the Federal Government has not within eight weeks from the day that the request for approval has reached the Federal Chancellery told the Governor that approval is withheld. The authorization to initiate negotiations and to conclude the treaty is incumbent on the Federal President after the recommendation of the Land Government and with the counter-signature of the Governor.

(3) Treaties concluded by a Land in accordance with para. 1 above shall be revoked upon request by the Federal Government. If a Land does not duly comply with this obligation, competence in the matter passes to the Federation.

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

(5) In the same way the Federation is in the case of implementation of international treaties entitled to supervision also in such matters as belong to the Laender's own sphere of competence. The powers vested in the Federation as against the Laender are in this instance the same as in matters pertaining to indirect Federal administration (Art. 102).

Art. 17. The provisions of Arts. 10 to 15 with regard to competence of legislation and execution in no way affect the position of the Federation and the Laender as the holders of civil rights.

Art. 18. (1) The entire public administration shall be based on law.

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

(3) If the immediate issue of measures, which require in accordance with the Constitution a resolution by the National Council, becomes necessary to prevent obvious and irreparable damage to the community at a time when the National Council is not assembled, cannot meet in time, or is impeded from action by events beyond its control, the Federal President can at the recommendation of the Federal Government and on his and their responsibility take these measures by way of provisional law-amending ordinances. The Federal Government must present its recommendation with the consent of the Standing Sub-Committee to be appointed by the Main Committee of the National Council (Article 55, para. 2). Such an ordinance requires the countersignature of the Federal Government.

(4) Every ordinance issued in accordance with para. 3 above shall without delay be submitted by the Federal Government to the National Council which if it is not in session at this time shall be convened by the Federal President, but if it is in session by the President of the National Council on one of the eight days following the submission. Within four weeks of the submission the must either vote a corresponding Federal law in place of the ordinance or pass a resolution demanding that the ordinance immediately become invalidated. In the latter case the Federal Government must immediately meet this demand. In order that the resolution of the National Council may be adopted in time, the President shall

at the latest submit the motion to the vote on the last day but one before expiry of the four weeks deadline; detailed provisions shall be made in the Federal act on the Standing Orders of the National Council. If the ordinance is in accordance with the previous provisions rescinded by the Federal Government, the legal provisions which had been invalidated by the ordinance become effective again on the day of entry into force of the rescission.

(5) The ordinances specified in para. 3 above may not contain an amendment to provisions of Federal constitutional law and may have for their subject neither a permanent financial burden on the Federation nor a financial burden on the Laender, districts or municipalities nor financial commitments for citizens nor an alienation of state property nor measures pertaining to matters specified in Art. 10 para. 1 sub-para. 11 nor, finally, such as concern the right of collective association or rent protection.

Art. 19. (1) The highest executive authorities are the Federal President, the Federal Ministers and the State Secretaries, and the members of the Land Governments.

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

Art. 20. (1) Under the direction of the highest authorities of the Federation and the Laender elected temporary functionaries or permanent appointees conduct the administration in accordance with the provisions of the laws. They are, save as provided otherwise 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 Land 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 Federal, Laender and municipal administrative duties as well as the functionaries of other public law corporate bodies are, save as otherwise provided by law, pledged to secrecy about all facts of which they have obtained knowledge exclusively from their official activity and whose concealment is enjoined on them in the interest of the maintenance of public peace, order and security, of universal national defence, of external relations, in the interest of a public law corporate body, for the preparation of a ruling or in the preponderant interest of the parties involved (official secrecy). Official secrecy does not exist for functionaries appointed by a popular representative body if it expressly asks for such information.

(4) All functionaries entrusted with Federation, Laender and municipal administrative duties as well as the functionaries of other public law corporate bodies shall impart information about matters pertaining to their sphere of competence in so far as this does not conflict with a legal obligation to maintain secrecy; an onus on professional associations to supply information extends only to members of their respective organizations and this inasmuch as fulfilment of their statutory functions is not impeded. The detailed regulations are, as regards the Federal authorities and the self-administration to be settled by Federal law in respect of legislation and execution, the business of the Federation; as regards the Laender and municipal authorities and the self-administration to be settled by Land law in respect of framework legislation, they are the business of the Federation while the implemental legislation and execution are Land business.

Art. 21. (1) Legislation and execution in matters pertaining to the service code, including the regulations on service contracts, for and staff representation rights of employees of the Laender, the municipalities, and the municipal associations are, save as provided otherwise in the case of all these matters by para. 2 below and Art. 14 para. 2 and para. 3 sub-para. d, incumbent on the Laender. Disputes arising from contractual employment are settled by the courts.

(2) Legislation and execution in matters pertaining to employee' protection 'for functionaries (para. 1) and to staff representation of Laender functionaries, in so far as they are not engaged in public

enterprises, are incumbent on the Laender. In so far as in accordance with the first sentence the Laender are not competent, the aforementioned matters fall within the competence of the Federation.

(3) Save as provided otherwise by this law, the service prerogative with regard to employees of the Federation is exercised by the highest authorities of the Federation. The service prerogative with regard to employees of the Laender is exercised by the highest authorities of the Laender; in so far as this law provides for appropriate exceptions with regard to employees of the Federation, it may be laid down by Land constitutional law that the service prerogative with regard to employees of the Land is exercised by equivalent authorities.

(4) The possibility of an alternation of service between the Federation, the Laender, the municipalities, and the municipal associations remains guaranteed at all times to public employees. Legal provisions, according to which times of service are taken into account differently depending on whether they were served with the Federation, a Land, a municipality, or a municipal association, are inadmissible. In order to enable the service code, the staff representation regulations and the employee protection scheme of the Federation, the Laender, and the municipalities to develop along equal lines, the Federation and the Laender shall inform each other about their plans in these matters.

(5) Legislation can provide that

1. civil servants are appointed temporarily for the performance of particular directorial functions or in cases where due to the nature of the duty this is necessary;
2. after expiry of the temporary term or upon change in the organization of the authorities or of the service code structures by law no appointment is necessary;
3. no appointment ist necessary in cases of a transfer or a change in the employment in so far as competence for the appointment is assigned pursuant to Art. 66 para. 1.

(6) In the cases under para. 5 above no claim to equivalent employment exists.

Art. 22. All authorities of the Federation, the Laender and the municipalities are bound within the framework of their legal sphere of competence to render each other mutual assistance.

Art. 23. (1) The Federation, the Laender, the districts, the municipalities and the other bodies and institutions established under public law are liable for the injury which persons acting on their behalf in execution of the laws have by illegal behaviour culpably inflicted on whomsoever.
(2) Persons acting on behalf of one of the legal entities specified in para. 1 above are liable to it, in so far as intent or gross negligence can be laid to their charge, for the injury for which the legal entity has indemnified the injured party.

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

(4) The detailed provisions with respect to paras. 1 to 3 above will be made by Federal law.

(5) A Federal law may also provide to what extent special provisions diverging from the principles laid down in paras. 1 to 3 apply in the fields of postal system and telecommunications.

B. European Union

Art. 23a. (1) The members to be delegated to the European Parliament by the Republic of Austria shall be elected 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 eighteenth year of life at the latest with the expiry of election day and on election day are either Austrian citizens and not excluded from the right to vote under the provisions of European Union law or are citizens of another member state of the European Union and eligible to vote under the provisions of European Union Law. The more detailed provisions about the electoral procedure will be made by Federal law.

(2) Federal territory constitutes for elections to the European Parliament a single electoral body.

(3) Eligible to be elected are all men and women who have completed their nineteenth year of life at the latest with expiry of election day and on the day appointed for election are either Austrian citizensand

not excluded from the right to vote under the provisions of European Union law or citizens of another member state of the European Union and eligible to vote under the provisions of European Union Law.

(4) Exclusion from the right to vote and from eligibility can only ensue from a sentence by the courts.

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

(6) The electoral registers will be drawn up by the municipalities as part of their assigned sphere of competence.

Art. 23b. (1) Public employees who seek a seat in the European Parliament shall be granted the time necessary for the canvassing of votes. Public employees who have been elected to membership of the European Parliament shall for the duration of their duties be suspended from office accompanied by loss of their emoluments. The detailed provisions will be settled by law.

(2) University teachers can continue their activity in research and teaching and their examination activity also while they belong to the European Parliament. The emoluments for such activity shall be calculated in accordance with the services actually performed, but may not exceed twenty-five per cent of a university teacher's salary.

(3) In so far as this Federal constitutional law stipulates the incompatibility of functions with membership or former membership of the National Council, these functions shall also be incompatible with membership or former membership of the European Parliament.

Art. 23c. (1) Austrian participation in the nomination of members of the Commission, the Court of Justice, the Court of First Instance, the Court of Auditors, the Managing Committee of the European Investment Bank, the Economic and Social Committee, and the Committee of the Regions within the framework of the European Union is incumbent upon the Federal Goverment.

(2) The Federal Goverment shall reach agreement with the Main Committee of the Nationalrat respecting the members of the Commission, the Court of Justice, the Court of First Instance, the Court of Auditors and the Managing Committee of the European Investment Bank. The Federal Goverment shall simultaneously inform the Main Committee of the National Council and the Federal President of its planned decision.

(3) The Federal Goverment shall on behalf of members of the Economic and Social Committee seek proposals from the statutory and other professional bodies of the various groups constituting the economic and social community.

(4) Austrian participation in the nomination of members of the Committee of the Regions and their deputies shall be effected on the basis of proposals from the Laender as well as from the Austrian Association of Cities and Towns (Austrian Municipial Federation) and the Austrian Association of municipalities (Austrian Communal Federation). In this connection the Laender shall propose respectively one, the Austrian Association of Cities and Towns and the Austrian

(6) Is the competent member of the Federal Goverment in possession of an opinion by the Federal Council about a project within the framework of the European Union which needs imperatively be implemented by a Federal constitutional law that would in accordance with Art. 44 paras. 2 require the agreement of the Federal Council, then the member is bound by this opinion during European Union negotiations and voting. Deviation is only admissible for imperative foreign and integrative policy reasons. The maintenance of the Federal Council's competencies pursuant to para. 1 above and this paragraph will be settled in more detail by the Standing Orders of the Federal Council. On this occasion there can be settled in particular the extent to which a specifically designated committee shall for the treatment of projects within the framework of the European Union be competent instead of the Federal Council and the extent to which the maintenance of the Federal Council's competencies pursuant the para 1 and this paragraph is reserved to the Federal Council itself.

Art. 23f. (1) Austria takes part in the Common Foreign and Security Policy of the European Union by reason of Title V of the Treaty on European Union, as amended by the Treaty of Nice. This includes participation in tasks under Article 17 para. 2 of this Treaty as well as in measures whereby the economic relations with one or more third party countries are suspended, restricted or completely ceased. Decisions of the European Council on a common defence of the European Union and on an integration of the West European Union into the European Union require the adoption of resolutions by the National Council and the Federal Council by applying Article 44 paras. 1 and 2 analogously.

(2) Article 23e paras. 2 to 5 hold good for voting within the framework of the Common Foreign and Security Policy of the European Union by reason of Title V and of police and judicial cooperation in criminal matters by reason of Title VI of the Treaty on European Union, as amended by the Treaty of Nice.

(3) Voting on decisions concerning peace-keeping tasks and the tasks of combat forces in crisis management, including peace-making, as well as on decisions under Article 17 of the Treaty on European Union, as amended by the Treaty of Nice, concerning the progressive framing of a common defence policy and closer institutional relations with the West European Union requires the agreement between the Federal Chancellor and the Federal Minister for Foreign Affairs.

(4) If the decision to be adopted is likely to entail an obligation for Austria to dispatch units or individual persons, measures to be taken in accordance with para. 3 may be approved only with the reservation that this still requires the conduct of the procedure provided for under constitutional law governing the dispatch of units or individual persons to other countries.

Chapter II
Federal Legislation
A. The Nationalrat

Art. 24. The legislative power of the Federation is exercised by the National Council jointly with the Federal Council.

Art. 25. (1) The seat of the National Council is Vienna, the Federal capital.

(2) For the duration of extraordinary circumstances the Federal President can at the request of the Federal Government convoke the National Council elsewhere within Federal territory.

Art. 26. (1) The National Council is elected by the nation in accordance with the principles of proportional representation on the basis of equal, direct, secret and personal vote for men and women who at the latest with expiry of election day have completed their eighteenth year of life. Detailed provisions about the electoral procedure will be made by Federal law.

(2) The Federal territory will be divided into self-contained constituencies whose boundaries may not overlap the Laender boundaries; these constituencies shall be sub-divided into self-contained regional constituencies. The number of deputies will be divided among the qualified voters of the constituencies (electoral bodies) in proportion to the number of nationals who in accordance with the result of the last census had their principal domicile in a particular constituency plus the number of those who on the day

of the census did not have their principal domicile in Federal territory, but were entered on the electoral register of a municipality pertaining to that particular constituency; the number of deputies allocated to a constituency will be divided in the same way among the regional constituencies. The National Council electoral regulations shall provide for a final distribution procedure relating to the whole Federal territory whereby in accordance with the principles of proportional representation there ensues a balance between the seats allocated to the parties standing for election in the constituencies and the distribution of the as yet unallocated seats. A division of the electorate into other electoral bodies is not admissible.

(3) The day of the poll must be a Sunday or other public holiday. If other circumstances arise that impede the start, the continuation or the conclusion of the poll, the electoral board can prolong to the next day or adjourn the poll.

(4) Eligible for election are all men and women who on the day appointed for election are in possession of Austrian nationality and have completed their nineteenth year of life at the latest with expiry of election day.

(5) Exclusion from the right to vote and from eligibility can only ensue from a sentence by the courts.

(6) Electoral boards shall be appointed for the implementation and conduct of elections to the National Council, the election of the Federal President, and referenda as well as for assistance in the scrutiny of initiatives and consultations of the people. Their members, with voting rights, shall include representatives from the participant political parties. The Federal electoral board shall moreover include members who belong or have belonged to the judiciary. The electoral regulations shall lay down – leaving aside members originating from the professional judiciary – the number of members to be allocated to the participant political parties in accordance with their strength as ascertained at the last National Council election. Voting abroad need not in the case of elections to the National Council, the election of the Federal President, and referenda ensue before an electoral board. The detailed provisions about voting abroad can be adopted by the National Council only in the presence of at least half the members and with a two thirds majority of the votes cast.

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

Art. 27. (1) The legislative period of the National Council lasts four years, calculated from the day of its first meeting, but in any case until the day on which the new National Council meets.

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

Art. 28. (1) The Federal President convokes the National Council each year for an ordinary session which shall not begin before 15 September and not last longer than 15 July the following year.

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

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

(4) Upon the opening of a new National Council session within the same legislative period work will be continued in accordance with the stage reached at the close of the last session. At the end of a session individual committees can be instructed by the National Council to continue their work.

(5) During a session the President of the National Council convokes the individual sittings. If during a session the number of members stipulated by the Federal law on the National Council's Standing Orders or the Federal Government so demands, the President is bound to convoke a sitting. More detailed

provisions are settled by the Federal law on the National Council's Standing Orders which shall also prescribe a period within which the National Council must convene.

(6) The Federal law on the National Council's Standing Orders shall lay down special provisions for its convocation in the event of the elected President's being precluded from the performance of their office or being deprived of their functions.

Art. 29. (1) The Federal President can dissolve the National Council, but he may avail himself of this prerogative only once for the same reason. In such case the new election shall be so arranged by the Federal Government that the newly elected National Council can at the latest meet on the hundredth day after the dissolution.

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

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

Art. 30. (1) The National Council elects the President, the Second and Third Presidents from among its members.

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

(3) The Parliamentary Staff, which is subordinate to the President of the National Council, is competent for the assistance with Parliamentary tasks and the conduct of administrative matters within the scope of the authorities of the Federation's legislature as well as the conduct of similar tasks and administrative matters concerning the members of the Republic of Austria delegated to the European Parliament. The internal organization of the Parliamentary staff for matters pertaining to the Fderatur1edea.6 Tc0.

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

C. The Bundesversammlung.

Art. 38. The National Council and the Federal Council meet as the Federal Assembly in joint public session at the seat of the National Council for the affirmation of the Federal President as well as for the adoption of a resolution on a declaration of war.

Art. 39. (1) Apart from the cases stated in Art. 60 para. 6 Art. 63 para. 2, Art. 64 para. 4, and Art. 68 para. 2, the Federal Assembly is convoked by the Federal President. The chairmanship alternates between the President of the National Council and the Chairman of the Federal Council, beginning with the former.

(2) The Act on the Standing Orders for the National Council are applied analogously in the Federal Assembly.

(3) The provisions of Art. 33 hold good also for the sessions of the Federal Assembly.

Art. 40. (1) The resolutions of the Federal Assembly are authenticated by its Chairman and countersigned by the Federal Chancellor.

(2) The resolutions of the Federal Assembly upon a declaration of war shall be officially published by the Federal Chancellor.

D. Federal Legislative Procedure

Art. 41. (1) Legislative proposals are submitted to the National Council as motions by its members, by the Federal Council or by one third of the Federal Council's members, and as bills by the Federal Government.

(2) Every motion by 100,000 voters or by one sixth each of the voters in three Laender (henceforth called "initiative") shall be submitted by the Federal electoral board to the National Council for action. Eligible to vote, as to initiatives, are those who on the last day of the registration deadline are eligible to vote for the National Council and have their principal domicile in a municipality within the federal territory. The initiative must concern a matter to be settled by Federal law and can be put forward in the form of a draft law.

Art. 42. (1) Every enactment of the National Council shall without delay be conveyed by the President to the Federal Council.

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

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

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

(5) The Federal Council has no claim to participation in so far as National Council resolutions concern the National Council's Standing Orders, the dissolution of the National Council, a Federal finance law, a temporary provision consonant with Art. 51 para. 5 or a disposal of Federal property, the assumption or conversion of a Federal liability, the contraction or the conversion of a Federal monetary debt, the sanction of a final Federal budget account.

Art. 43. If the National Council so resolves or if the majority of members of the National Council so demands, every enactment of the National Council shall be submitted to a referendum upon conclusion of the procedure pursuant to Art. 42 above but before its authentication by the Federal President.

Art. 44. (1) Constitutional laws or constitutional provisions contained in simple laws can be passed by the National Council only in the presence of at least half the members and by a two thirds majority of the votes cast; they shall be explicitly specified as such ("constitutional law", "constitutional provision").

(2) Constitutional laws or constitutional provisions contained in simple laws restricting the competence of the Laender in legislation or execution require furthermore the approval of the Federal Council which must be imparted in the presence of at least half the members and by a two thirds majority of the votes cast.

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

Art. 45. (1) For a referendum the absolute majority of the validly cast votes is decisive.

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

Art. 46. (1) The procedure for an initiative and a referendum will be prescribed by Federal law.

(2) Everyone who on the day the initiative or referendum is held has the right to vote for the National Council shall be eligible to vote.

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

Art. 47. (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.

Art. 48. Federal acts and such treaties ratified in accordance with Art. 50 will be published with reference to their adoption by the National Council, Federal laws based upon a referendum with reference to the result of that referendum.

Art. 49. (1) Federal laws and the treaties specified in Art. 50 shall be published by the Federal Chancellor in the Federal Law Gazette. To the extent not explicitly provided otherwise, they become legally effective with expiry of the day of their publication and distributed, and apply to the entire Federal territory;

(2) The treaties ratified in accordance with Art 50 para 1 shall be published by the Federal Chancellor in the Federal Law Gazette.The National Council can on the occasion of ratifying a treaty as defined in Art. 50 resolve in which other manner the treaty or individual explicitly specified parts of it shall be published ; such resolutions of the National Council shall be notified by the Federal Chancellor in the Federal Law Gazette. To the extent not otherwise expressly provided, treaties ratified in accordance with Art 50 para 1 become legally effective upon the expiry of the day on which they are published – in the case of the second clause upon expiry of the day of the promulgation of the resolution of the National Council – and shall apply to the entire territory of the Federation; this shall not apply to treaties to be complied with by issuance of an act (Art 50 para 2).

(3) Notifications in the Federal Law Gazette as well as under para 2 second clause must be accessible to the public and obtainable in the form notified on a complete and permanent basis.

(4) The detailed provisions on the promulgation in the Federal Law Gazette shall be issued by Federal act.

Art. 49a. (1) The Federal Chancellor is empowered jointly with the competent Federal Ministers to restate with binding effect Federal laws, with the exception of this Law, and treaties published in the Federal Law Gazette in their valid version by publication in the Federal Law Gazette.

(2) In the promulgation regarding the re-notification

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

(3) To the extent not expressly provided otherwise, the republished Federal act (the republished treaty) and the remaining instructions contained in the promulgation become legally effective upon expiry of the day when promulgated..

Art. 49b. (1) A consultation of the people on a matter of fundamental and overall national importance for whose settlement the legislature is competent must take place if the National Council votes it by reason of a motion from its members or from the Federal Government. Elections and matters subject to a decision by a court or an administrative authority cannot be the topic of a consultation of the people.

(2) A motion pursuant to para. 1 above must include a proposal for the formulation of the question to be basically put in the consultation of the people. This must consist either of a question to be answered with "Yes" or "No" or of two alternative solution proposals.

(3) Consultations of the people shall be implemented in a manner analogous to Arts. 45 and 46. The right to vote, as to consultations of the people, appertains to those who on the day appointed for election possess National Council suffrage and have their principal domicile in a municipality in Federal territory. The Federal electoral board must submit the result of a plebiscite to the National Council and the Federal Government.

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

Art. 50. (1) Political treaties, and others in so far as their contents modify or complement existent laws and do not fall under Art. 16 para. 1, may only be concluded with sanction of the National Council. In so far as such treaties settle matters within the autonomous sphere of competence of the Laender, they require in addition the approval of the Federal Council.

(2) At the time of giving its sanction to a treaty which falls under para. 1 above, the National Council can vote that the treaty in question shall be implemented by the issue of laws.

(3) Art. 42 paras. 1 to 4 inclusive and, should constitutional law be modified or complemented by the treaty, Art. 44 paras. 1 and 2 shall be analogously applied to resolutions of the National Council in accordance with paras. 1 and 2 above. In a vote of sanction adopted pursuant to para. 1 above, such treaties or such provisions as are contained in treaties shall be explicitly specified as "modifying the constitution".

Art. 51. (1) The National Council votes the Federal Finance Act. The Federal Government’s draft shall form the basis of the debates.

(2) The Federal Government must at the latest ten weeks before expiry of the fiscal year submit to the National Council the draft of a Federal Finance Act for the ensuing fiscal year.

(3) The Federal Finance Act shall include as annexes the estimate of the revenue and expenditure of the Federation (the Federal budget estimates), the planned establishments for the ensuing financial year as well as other elements material for the management of the economy during the year in question. The Federal budget estimates can moreover in the case of Federal enterprises and Federal special assets include only the grants towards deficit coverage and Federal incoming surpluses. In this instance, though, the revenue and expenditure for the ensuing financial year for the particular Federal undertaking or the special asset shall be shown separately in an annex to the Federal Finance Act.

(4) If the Federal Government has not in due time submitted to the National Council the draft of a Federal Finance Act, a draft of a Federal Finance Act can likewise be introduced on the motion of its members. Should the Federal Government subsequently submit the draft of a Federal Finance Act, the National Council can vote to adopt this draft as the basis for its debates.

(5) If the National Council does not before expiry of the fiscal year adopt a Federal budget for the ensuing fiscal year and likewise makes no temporary provision by way of a Federal law, revenue shall be raised in accordance with the actual legal position. Expenditure shall

1. in so far as the Federal Government has submitted the draft of a Federal Finance Act, be made pursuant to this draft until such time as a legal adjustment enters into force, but at the most during the first four months of the ensuing fiscal year;
2. in so far as the Federal Government has not submitted any draft of a Federal Finance Act or if in the case of sub-para. 1 above the first four months of the ensuing fiscal year have expired, be made pursuant to the expenditure amounts budgeted in the last Federal Finance Act.

Allowing for the changes effected by reason of laws in the revenue and expenditure, the amounts of expenditure appropriated in a draft Federal Finance Act or the last Federal Finance Act and to be respectively applied pursuant to sub-paras. 1 and 2 above constitute the ceilings of the admissible expenditure, with one twelfth of these appropriations serving as the foundation for each month's outlay. Expenditure requisite to the fulfilment of liabilities must however be made according to their maturity. Pursuant to sub-paras. 1 and 2 above, planned establishments can on the basis of a draft Federal Finance Act or the last Federal Finance Act be filled and monetary debts to half of the respectively anticipated ceiling amounts as well as short term commitments for the temporary reinforcement of cash holdings be incurred. The provisions of the last Federal Finance Act, the revenue and expenditure included therein excepted, shall moreover be analogously applied.

(6) The more detailed provisions as to the preparation of the Federal Finance Act and as to the management of the Federal economy shall be settled in conformity with uniform principles by constitutional law. The latter shall in particular prescribe the mode of procedure where the contraction and conversion of liabilities from supplies of funds not due for redemption in the same fiscal year or from long term financing (monetary debts) are concerned, for the creation of prior encumbrances, arising on the formation of budgetary reserves, in the case of disposals of Federal assets and if Federal liabilities are assumed, as well as the participation of the Public Audit Office in the system of accountancy.

Art. 51a. (1) The Federal Minister of Finance must see to it that in the management of the economy first of all the expenditure requisite for the fulfilment of commitments due and then payments of the remaining earmarked expenditure are made, observing the principles of thrift, economic efficiency and expediency.

(2) If the development of revenue and expenditure so requires or during the course of the fiscal year a material alteration in the overall economic development appears, the Federal Finance Minister can

1. order the entire or partial employment of a special anticyclical budget earmarked in the Federal Finance Act;

2. order, with the agreement of the Federal Government, temporary expenditure freezes for a period in each instance of at most six months, provided that the fulfilment of Federal commitments due is thereby not affected.

Art. 51b. (1) Expenditure of a kind not earmarked in the Federal Finance Act (extraordinary expenditure) or necessitating a transcendence of expenditure appropriation in the Federal Finance Act (non-scheduled expenditure) may within the framework of the economy's management be made only on the basis of authorization by Federal finance laws.

(2) In an emergency, though, unpredictable and incontestable payments may, on the basis of an ordinance by the Federal Government and in agreement with the National Council committee entrusted with preliminary discussion of Federal finance laws, be made for

1. extraordinary expenditure to the extent of one thousandth at most of the overall expenditure earmarked by the Federal Finance Act;
2. non-scheduled expenditure to the extent of two thousandths at most of the overall expenditure earmarked by the Federal Finance Act. If the National Council committee entrusted with preliminary discussion of Federal finance laws reaches no decision within two weeks, agreement counts as having been given.

(3) With the consent of the Federal Finance Minister non-scheduled expenditure may be paid if these excess costs are necessitated

1. by reason of a legal liability,
2. in consequence of an existent monetary debt,
3. by reason of some other commitment existing already at the time of the Federal Finance Act's effective date or
4. as the outcome of additional expenditure or additional revenue connected therewith.

(4) The National Council can in the Federal Finance Act authorize the Federal Finance Minister to consent to non-scheduled expenditure other than specified in para. 3 above. This authorization may only be given provided that the transcendence is factually linked to conditions and in terms of figures is definite or calculable as well as relating to expenditure

1. whose realignment is, without the structure of the Federal budget estimates being substantially altered thereby, necessitated on account of unpredictable emergency, or
2. which becomes necessary if during the course of the fiscal year a material change in the overall economic development appears (Art. 51a para. 2) or
3. which in the light of the overall total expenditure figure foreseen in the Federal Finance Act is of negligible importance.

(5) An excess of expenditure by reason of this Article's provisions may be only agreed to or consented if the coverage is secured by savings or by additional revenue.

(6) In the case of defence extraordinary expenditure and non-scheduled expenditure for the purposes of universal national defence (Art. 9a) may within a fiscal year be made to the extent of ten per cent all told of the overall expenditure figure foreseen in the Federal Finance Act by reason of an ordinance by the Federal Government agreed with the National Council committee entrusted with preliminary discussion of Federal finance laws. In so far as the coverage for such excess expenditure cannot be ensured by savings or additional revenue, the ordinance shall authorize the Federal Finance Minister to effect the requisite coverage by the contraction or conversion of monetary debts.

Art. 51c. (1) The participation of the National Council in the management of the economy pursuant to Art. 51b and para. 2 below is incumbent on the National Council committee entrusted with the preparation of Federal finance laws. It can delegate specific tasks to a standing sub-committee on which it is incumbent to participate too in the management of the economy if the National Council is dissolved

by the Federal President in accordance with Art. 29 para. 1. The committee entrusted with preliminary discussion of Federal finance laws or else its standing sub-committee shall also be convened outside National Council sessions (Art. 28) if the need arises. The detailed provisions are settled by the Federal law on the National Council's Standing Orders.

(2) The Federal Minister of Finance shall report quarterly to the National Council committee cited in para. 1 above on the measures taken pursuant to Art. 51a para. 2 as well as Art. 51b paras. 2 to 4. Further reports shall be delivered to this committee in conformity with special Federal legal provisions.

Art 52. (1) The National Council and the Federal Council are entitled to examine the administration of affairs by the Federal Government, to interrogate its members about all subjects pertaining to execution, and to demand all relevant information as well as to ventilate in resolutions their wishes about exercise of the executive power.

(2) Rights of control pursuant to para. 1 hold good as regards the Federal Government and its members likewise in respect of enterprises in which the Federation has a participation of at least fifty per cent in the share, stock, or equity capital and which is subject to the control of the Public Audit Office. Such a financial participation shall be deemed equivalent to the domination of enterprises by way of different financial or other economic or organizational measures. This applies also to enterprises at every further level where the prerequisites pursuant to this paragraph are on hand.

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

(4) The detailed regulation respecting the right of interrogation will be settled by the Federal law on the National Council's Standing Orders as well as in the Federal Council's Standing Orders.

Art. 52a. (1) The National Council's competent committees elect two standing sub-committees of inquiry to review measures for the safeguard of constitutionally established agencies as well as their operative capacity and intelligence measures to secure the country's military defence. Each sub-committee must include at least one member from each of the parties represented in the Main Committee of the National Council.

(2) The standing sub-committees are empowered to require from the competent Federal Ministers all relevant information and insight into the relevant materials. This does not apply to information and material, in particular about sources, whose disclosure would endanger national security or the safety of individuals.

(3) The standing sub-committees can, if need be, meet at times others than those of National Council sessions.

(4) The Federal law on the National Council's Standing Orders settles detailed provisions.

Art. 52b. (1) For the scrutiny of a particular proceeding in a matter relating to the Federal financial administration the Committee constituted pursuant to Art. 126d para. 2 elects a Standing Sub-Committee. At least one member from every party represented in the National Council's Main Committee must belong to this Sub-Committee.

(2) The detailed provisions are settled by the Federal law on the National Council's Standing Orders.

Art. 53. (1) The National Council can by resolution set up committees of inquiry.

(2) The detailed regulations respecting the establishment of, and the procedure for, committees of inquiry will be settled by the Federal law on the National Council's Standing Orders.

(3) The courts and all other authorities are obliged to comply with the request of these committees to take evidence; all public departments must on demand produce their files.

Art. 54. Repealed.

Art. 55. (1) The National Council elects its Main Committee from its members in accordance with the principle of proportional representation.

(2) Should the need arise, the Main Committee shall be convoked also between sessions of the National Council (Art. 28).

(3) The Main Committee elects from its members a Standing Sub-Committee upon which devolve the powers stipulated by this Law. The election takes place in accordance with proportional representation; respect for this principle must nonetheless allow for inclusion in the Sub-Committee of at least one member of every party represented in the Main Committee. The Federal law on the Standing Orders of the National Council must provide that the Standing Sub-Committee can be convoked and can meet at any time. If the National Council in accordance with Art. 29 para. 2 is dissolved by the Federal President, participation in the executive power which in accordance with this Law otherwise lies with the National Council (Main Committee) devolves upon the Standing Sub-Committee.

(4) It can be stipulated by Federal law that certain general acts of the Federal Government or a Federal Minister need the agreement of the Main Committee as well as that reports be rendered to the Main Committee by the Federal Government or a Federal Minister. More detailed provisions, especially if no agreement is reached, are settled by the Federal Law on the National Council's Standing Orders.

(5) As regards ordinances by the competent Federal minister concerning control measures for safeguarding undisturbed production or the supply of the population and other consumers with essential economic and consumer goods, provision shall be made for obtaining the consent of the National Council's Main Committee; in an emergency and for the repeal of such ordinances, special regulations may be adopted. Resolutions of the Main Committee approving such ordinances can only be adopted in the presence of at least half of its members and by a two-thirds majority of the votes cast.

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

Art. 56. (1) The members of the National Council and the members of the Federal Council are bound in the exercise of their function by no mandate.

(2) If a member of the Federal Government or a State Secretary has relinquished his seat as a member of the National Council, the competent electoral board shall again assign him the seat when he has left office, in the cases of Art. 71 after release from entrustment with continuation of the administration, provided that he has not within eight days advised the board of his disclaimer to the renewed exercise of his mandate.

(3) This renewed assignment ends the mandate of that National Council member who has held the seat of the temporarily retired member in so far as another, subsequent National Council member did not on the occasion of nomination to the seat in the same constituency declare to the electoral board his wish to exercise the mandate as deputy for the temporarily retired member of the National Council.

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

Art. 57. (1) The members of the National Council may never be made responsible for votes cast in the exercise of their function and only by the National Council on the grounds of oral or written utterances made in the course of their function.

(2) The members of the National Council may on the ground of a criminal offence – the case of apprehension in the act of committing a crime excepted – be arrested only with the consent of the National Council. Domiciliary visitations of National Council members likewise require the National Council's consent.

(3) Legal action on the ground of a criminal offence may otherwise without the National Council's consent be taken against members of the National Council only if it is manifestly not connected with the political activity of the member in question. The authority concerned must however seek a decision by the National Council on the existence of such a connection if the member in question or a third of the

members belonging to the Standing Committee entrusted with these matters so demands. Every act of legal process shall in the case of such a demand immediately cease or be discontinued.

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

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

(6) The immunity of members ends with the day of the meeting of the newly elected National Council, that of functionaries of the National Council whose tenure of office extends beyond this date on the expiry of this term of office.

(7) The detailed provisions are settled by the Federal law on the National Council's Standing Orders.

Art. 58. The members of the Federal Council enjoy for the whole duration of their tenure of office the immunity of the members of the Diet which has delegated them.

Art. 59. No member of the National Council, the Federal Council or the European Parliament can simultaneously belong to one of the two other representative bodies.

Art. 59a. (1) A public employee who seeks a seat in the National Council shall be granted the time necessary for the canvassing of votes.

(2) A public employee who is a member of the National Council or the Federal Council shall, at his request, be granted leave of absence or be retired for the time necessary for the fulfilment of his membership duties. During leave of absence, pay shall correspond to the amount of work actually performed within the framework of service duties, but shall not exceed 75 per cent of total pay; this limit also applies if no use is made either of leave of absence or retirement. Retirement entails the termination of all service-related payments.

(3) If it is not possible for a public employee to be appointed to his previous post because of the fulfilment of his membership duties, he is entitled to be assigned a reasonably equivalent – if he agrees, also a not equivalent – activity. The pay shall be determined by the activity actually performed by the employee.

Art. 59b. (1) To control the pay of public employees who have been elected members of the National Council or Federal Council, a Commission will be set up under the auspices of the Parliamentary Staff. The Commission consists of:

1. one representative nominated by each of the Presidents of the National Council,
2. two representatives nominated by the President of the Federal Council with the consent of the Vice-Presidents,
3. two representatives of the Laender,
4. two representatives of the municipalities, and
5. one member who previously exercised a judicial function.

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

(2) At the request of a public employee, who is a member of the National Council or the Federal Council, or at the request of his employing authority, the Commission gives an opinion on disputes arising between the public employee and his employing authority in the execution of Article 59a or in respect of regulations issued in its implementation. The Commission also gives opinions on such disputes arising between a judge and chamber or a commission within the meaning of Art. 87 para. 2 as well as on disputes arising between a member of the National Council or the Federal Council and the President of the National Council in the execution of Art. 30 para. 3.

(3) The member of the National Council or Federal Council who is a public employee is obliged to inform the Commission each year about the arrangement he has made in respect of his leave of absence or retirement in accordance with Art. 59a and how the work to be performed by him will be reviewed. Art. 53 para. 3 shall analogously apply to inquiries by the Commission. The Commission furnishes itself with Standing Orders. Each year, the Commission shall file a report with the National Council – as far as members of the Federal Council are concerned, with the Federal Council -, which shall be published.

Chapter III
Federal Execution
A. Administration
1. The Federal President

Art. 60. (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 shall take place by way of referendum. Anyone with National Council suffrage is entitled to vote. Voting in the election is compulsory in Federal Laender where Land 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.

(3) Only a person who has National Council suffrage and was thirty-five years old before expiry of election day 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 only.

(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 National Council has passed such a motion. The National Council vote requires the presence of at least half the members and a majority of two thirds of the votes cast. By such a National Council vote the Federal President is prevented from the further exercise of his office. Rejection by the referendum of the deposition holds good as a new election and entails the dissolution of the National Council (Art. 29 para. 1). In this instance too the Federal President’s total term of office may not exceed twelve years.

Art. 61. (1) During his tenure of office the Federal President may not belong to any 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 safeguarded by law.

Art. 62. (1) On his assumption of office the Federal President renders the following affirmation before the Federal Assembly:

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

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

Art. 63. (1) The institution of legal process against the Federal President is only admissible if the Federal Assembly has agreed.

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

Art. 64. (1) All the Federal President's responsibilities, should he be prevented from their discharge, pass in the first instance to the Federal Chancellor. If the impediment lasts longer than twenty days or if pursuant to Art. 60 para. 6 the Federal President is prevented from the discharge of his office, the President, the Second President, and the Third President of the National Council acting as a committee shall undertake the responsibilities of the Federal President. The same holds good if the position of the Federal President is continuously in abeyance.

(2) The committee entrusted according to para. 1 above with the exercise of the Federal President's functions decides by majority vote. Chairmanship of the committee devolves on the President of the National Council, likewise its representation in public.

(3) Is one or are two of the National Council's Presidents prevented from the discharge of their responsibilities or is their position continuously in abeyance, the committee still constitutes a quorum even without their participation; in the event of a tie, the President senior in rank has the casting vote.

(4) In case the position of the Federal President is continuously in abeyance, the Federal Government shall immediately arrange the election of the new Federal President; after the ensuing election the committee shall without delay convoke the Federal Assembly for the affirmation of the Federal President.

Art. 65. (1) The Federal President represents the Republic internationally, receives and accredits envoys, sanctions the appointment of foreign consuls, appoints the consular representatives of the Republic abroad and concludes treaties. At the time of conclusion of a treaty not falling under Art. 50 or a treaty pursuant to Art. 16 para. 1 which neither modifies nor complements existent laws, he can direct that the treaty in question shall be implemented by the issue of ordinances.

(2) Furthermore there is vested in him – apart from the powers assigned to him in accordance with other provisions of this Constitution – authority:

a) to appoint Federal civil servants, including officers as well as other Federal functionaries, and to bestow official titles on them;

b) to create and to bestow professional titles;

c) in individual cases to pardon persons sentenced without further resources of appeal, to mitigate and commute sentences pronounced by the courts, as an act of grace to annul sentences and to grant remission from their legal consequences, and moreover to quash criminal proceedings in actions subject to prosecution *ex officio*;

d) on the petition of parents to declare illegitimate children legitimate.

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

Art. 66. (1) The Federal President can assign to the competent members of the Federal Government the right vested in him to appoint certain categories of Federal civil servants and empower them to

delegate, as regards certain categories of Federal Civil servants, this competence to authorities subordinate to him.

(2) The Federal President can authorize the Federal Government or the competent members of the Federal Government to conclude certain categories of treaties which do not fall under Art. 16 para. 1 nor under Art. 50; such an authorization extends also to the power to order that these treaties shall be implemented by the issue of ordinances.

(3) The Federal President can on the recommendation of a Land Government and with the counter-signature of the Governor authorize the Land Government to conclude treaties in accordance with Art. 16 para. 1 when they neither modify nor complement existing laws; such an authorization extends also to the power to direct that these treaties shall be implemented by the issue of ordinances.

Art. 67. (1) Save as otherwise provided by the Constitution, all official acts of the Federal President shall be based on recommendation by the Federal Government or the Federal Minister authorized by it. The law provides to what extent the Federal Government or the competent Federal Minister is herein dependent on recommendations from other quarters.

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

Art. 68. (1) The Federal President is responsible to the Federal Assembly for the exercise of his functions under Art. 142.

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

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

2. The Federal Government

Art. 69. (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. Should the Federal Chancellor and the Vice-Chancellor simultaneously be prevented from the discharge of their responsibilities and no deputy has been appointed, the most senior – in the case of equal seniority, the eldest – member of the Federal Government who is not prevented from the discharge of his duties shall deputize for the Federal Chancellor.

(3) The Federal Government has a quorum when more than half of its members are present.

Art. 70. (1) The Federal Chancellor and, on his recommendation, the other members of the Federal Government are appointed by the Federal President. No recommendation is requisite to the dismissal of the Federal Chancellor or the whole Federal Government; the dismissal of individual members of the Federal Government ensues on the recommendation of the Federal Chancellor. The appointment of the Federal Chancellor or the whole Federal Government is countersigned by the newly appointed Federal Chancellor; dismissal requires no countersignature.

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

(3) Should a new Federal Government be appointed by the Federal President at a time when the National Council is not in session, he must convoke the National Council for an extraordinary session

(Art. 28 para. 2), and that to meet within one week, for the purpose of introducing the new Federal Government.

Art. 71. Should the Federal Government have left office, the Federal President shall entrust members of the outgoing Government with continuation of the administration and one of them with the chairmanship of the provisional Federal Government. A State Secretary attached to an outgoing Federal Minister or a senior civil servant in the Federal Ministry concerned can likewise be entrusted with continuation of the administration. This provision applies analogously if individual members of the Federal Government have left office. Whoever is entrusted with continuation of the administration bears the same responsibility as a Federal Minister (Art. 76).

Art. 72. (1) Before their assumption of office the members of the Federal Government render an affirmation to the Federal President. The addition of a religious asseveration is admissible.

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

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

Art. 73. (1) Should a Federal Minister be temporarily prevented from discharging his responsibilities, the Federal President entrusts, upon recommendation of the Federal Chancellor and in consultation with the Federal Minister to be deputized or, if this is not possible, in consultation with the Vice-Chancellor, one of the other Federal Ministers, a State Secretary attached to the Federal Minister who is prevented from discharging his responsibilities, or a senior civil servant in the Federal Ministry concerned to deputize for him. This deputy carries the same responsibility as a Federal Minister (Art. 76). Staying in another Member State of the European Union is not deemed to prevent a Federal Minister from discharging his responsibilities.

(2) The Federal Minister competent for a matter can assign to another Federal Minister or a State Secretary the power to participate in the sessions of the Council of the European Union and within this framework to conduct the negotiations respecting a particular project and to vote thereon.

(3) A member of the Federal Government who is staying in another Member State of the European Union may let his business in the National Council or Federal Council be taken care of by a State Secretary attached to him or another Federal Minister. A member of the Federal Government, who is not deputized for, may assign his right to vote in the Federal Government to another Federal Minister; this does not affect his accountability. The voting right may only be assigned to a member of the Federal Government who has not already been entrusted with deputizing for another member of the Federal Government and whom a voting right has not already been assigned to.

Art. 74. (1) If the National Council passes an explicit vote of no confidence in the Federal Government or individual members thereof, the Federal Government or the Federal Minister concerned shall be removed from office.

(2) The presence of half the members of the National Council is requisite to a vote of no confidence in the National Council. Voting shall however be adjourned until the next working day but one if the number of members stipulated by the Federal law on the National Council's Standing Orders so demands. A fresh adjournment of the division can ensue only from a decision by the National Council.

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

Art. 75. The members of the Federal Government as well as the Staatssekretäre are entitled to participate in all deliberations by the National Council, the Federal Council, and the Federal Assembly as well as the committees (sub-committees) of these representative bodies, but only at special invitation in the deliberations by the Standing Sub-Committee of the National Council's Main Committee and by the National Council's Committees of Inquiry. On each occasion they must, in accordance with the detailed

provisions of the Federal law on the National Council's Standing Orders and of the Federal Council's Standing Orders, at their request be given a hearing. The National Council, the Federal Council, and the Federal Assembly as well as their committees (sub-committees) can require attendance by members of the Federal Government and request them to initiate investigations.

Art. 76. (1) The members of the Federal Government (Arts. 69 and 71) are responsible to the National Council under Art. 142.

(2) The presence of more than half the members is requisite to a motion which prefers a charge pursuant to Art. 142.

Art. 77. (1) The Federal Ministries and the authorities subordinate to them shall perform the business of the Federal administration.

(2) The number of the Federal Ministries, their competence, and their 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 appertain to the Federal Chancellery; such Federal Ministers have in respect of the matters in question the status of a competent Federal Minister.

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

Art. 78. (1) In special cases Federal Ministers can be appointed without at the same time being put in charge of a Federal Ministry.

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

(3) With the consent of the State Secretary, the Federal Minister may also entrust him with certain tasks. The State Secretary is also subordinate to the Federal Minister in fulfilling these tasks and is bound by his instructions.

3. The Federal Security Authorities

Art. 78a. (1) The supreme security authority is the Federal Minister of the Interior. Subordinate to him are the security directorates followed by the district administrative authorities and the Federal Police Directorates in their capacity as security authorities.

(2) If the life, health, freedom or property of individuals are actually in danger or such danger is directly impending, security officials are, irrespective of the competence of another authority for repulse of the hazard, competent to render primary assistance till the intervention of the respective competent authority.

(3) Federal laws provide to what extent municipalities authorities must take action as security authorities.

Art. 78b. (1) Every Land has a security directorate. Its head is the security director. In Vienna the Federal Police Directorate is at the same time the Security Directorate, the Police President likewise the Security Director.

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

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

Art. 78c. (1) The Police Director is the head of a Federal Police Directorate. In Vienna the Police President is the head of the Federal Police Directorate.

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

Art. 78d. (1) Constabularies are armed or uniformed or otherwise militarily patterned units invested with tasks of a police character. In particular not to be counted among the constabularies are guard personnel established for the protection of certain branches of soil cultivation, such as agriculture and forestry (field, crops, and forest protection), for mining, hunting, fishing or other licensed water usages, market supervision officials, and fire brigades.

(2) No other territorial authority may, within the territorial sphere of competence of a Federal Police Directorate, to which a Federal police force is attached, set up or maintain a constabulary.

4. The Federal Army

Art. 79. (1) The country's military defence is the duty of the Federal Army. It shall be conducted on the principles of a militia system.

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

1. also beyond 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 in general;
2. to render assistance in the case of natural catastrophes and disasters of exceptional magnitude.

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

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

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

Art. 80. (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 (Art. 76 para. 1).

Art. 81. Federal law prescribes to what extent the Laender participate in the recruitment, provisioning and accomodation for the Army and the supply of its other requirements.

5. The Federal School Authorities

Art. 81a. (1) The administration of the Federation in the field of schooling and in the field of education in matters pertaining to student hostels shall be undertaken by the competent Federal Minister and – in so far as neither the university and fine arts academical system nor the agricultural and forestry school system nor the forestry and agricultural educational system in matters pertaining to student hostels concerned – by the school authorities of the Federation subordinate to the competent Federal Minister. The municipalities can, as part of the Federation's assigned sphere of competence, be called upon to maintain registers of those who are of school-attendance age.

(2) A school authority shall be established in each Land and in each political district and be known as the Land school board and the district school board respectively. In Vienna the Land 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 Land and district school boards shall be prescribed by Federal law.

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

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

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

c) The terms of reference for the committees and the presidents (chairmen) of the Land 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 (chairman) shall take action in the sphere of competence allocated to the committee as pertaining to its business and without delay inform the committee of this.

e) Should for more than two months a committee lack a quorum the tasks of the committee for the further period of its numerical incapacity devolve upon the president (chairman). In these cases the president (chairman) replaces the committee.

(4) Instructions (Art. 20 para. 1) cannot be given on matters which fall into the committees sphere of competence. This does not hold good for instructions which forbid the implementation of a committee resolution as being contrary to law or which direct the repeal of an ordinance issued by the committee. The reasons for such instructions shall be stated. In accordance with Arts. 129 and 130, 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 satisfy himself in person or through officials of the Federal Ministry in his charge about the condition and performance of those schools and student hostels which are subordinate to the Federal Ministry by way of the Land school board. Established shortcomings – in so far as they do not concern such in the sense of Art. 14 para. 8 – shall be notified to the Land school board for the purpose of their redress.

Art. 81b. (1) The Land school board shall render three sets of proposals:

a) for the filling of Federal vacancies for headmasters/headmistresses as well as other teachers and educational assistants at schools and student hostels subordinate to the Land school boards;

b) for the filling of Federal vacancies for the school supervisory officials serving with the Land and Bezirk school boards as well as for the appointment of teachers with school supervisory functions;

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 para. 1 above shall be rendered, pursuant to Art. 66 para. 1 or Art. 67 para. 1 or by reason of other provisions, to the competent Federal Minister. The selection of individuals from among those proposed is incumbent on the Federal Minister.

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

B. Jurisdiction

Art. 82. (1) The Federation is the source of all jurisdiction.

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

Art. 83. (1) The constitution and competence of the courts is laid down by Federal law.

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

(3) Deleted.

Art. 84. Military jurisdiction – except in time of war – is repealed.

Art. 85. Capital punishment is abolished.

Art. 86. (1) Save as provided otherwise by this law, judges are appointed pursuant to the proposal of the Federal Government by the Federal President or, by reason of his authorization, by the competent Federal Minister; the Federal Government or the Federal Minister shall obtain proposals for appointment from the chembers 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.

Art. 87. (1) Judges are independent in the exercise of their judicial office.

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

(3) Business shall be allocated in advance among the judges of 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 in case of his being prevented from the discharge of his responsibilities or his being unable to cope with his duties, due to their extent, within a reasonable time.

Art. 87a. (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 civil servants of the Federation who are not judges.

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

(3Civil servants of the Federation who are not judges are bound in the performance of business specified in para. 1 above only by instructions from the judge competent in accordance with the allocation of business. Art. 20 para. 1 third sentence shall apply.

Art. 88. (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 however 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 what period judges can without the formalities otherwise prescribed be transferred and superannuated.

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

Art. 88a. The law on the organization of the courts may provide for posts of substitute judges assigned to a higher court. The number of such posts may not exceed two per cent of the number of judge posts assigned to the subordinate courts. The duties of the substitute judges in charge at subordinate courts shall in accordance with the law on the organizations of the courts be determined by the competent chamber of the higher court. Substitute judges may be entrusted only with the substitution of judges of subordinated courts and only if these judges are prevented from the discharge of their responsibilities or are unable to cope with their duties, due to the extent of these, within a reasonable time.

Art. 89. (1) Save as otherwise provided by the following paragraphs, the courts are not entitled to examine the validity of duly published regulations, promulgations of the re-notification of an act (treaty), acts,, , 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) Para 2 first clause and para 3 above apply accordingly to promulgations on the re-notification of an act (treaty), para. 2 and para. 3 above apply accordingly to treaties as provided in Art. 140a.

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

Art. 90. (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.

Art. 91. (1) The people shall participate in the jurisdiction.

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

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

Art. 92. (1) The Supreme Court is the court of final instance in civil and criminal suits.

(2) Members of the Federal Government, a Land 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.

Art. 93. General amnesties for acts punishable by the courts are extended by Federal law.

Art. 94. Judicial and administrative powers shall be separate at all levels of proceedings.

Chapter IV
Legislation and Execution by the Laender
A. General Provisions

Art. 95. (1) The legislation of the Laender is carried out by the Diets. Their members are elected on the basis of proportional representation by equal, direct, secret and personal suffrage of all male and female Land citizens who in accordance with the Diet electoral regulations are entitled to vote. Land law regulates the detailed provisions respecting the electoral procedure and, if need be, the compulsory voting. This Land law shall in particular prescribe the grounds on which non-participation in the election notwithstanding compulsory voting is deemed to be excused.

(2) The Diet electoral regulations may not impose more stringent conditions for suffrage and electoral eligibility than does the Federal Constitution for elections to the National Council.

(3) The voters exercise their franchise in self-contained constituencies which can be divided into self-contained regional constituencies. The number of members shall be divided among the constituencies in proportion to the numbers of nationals. The Diet electoral regulations can provide for a final distribution procedure throughout the Land whereby a balance between the seats allocated to the candidate parties in the constituencies and likewise a distribution of the as yet unallocated seats is effected in accordance with the principles of proportional representation. A division of the electorate into other electoral bodies is not admissible.

(4) To public employees who seek a seat in the Diet or who are elected to membership of a Diet, Art. 59a shall apply, stricter regulations are admissible. Land constitutional law can create an institution with the same powers and the same obligation to publicize a report as those of the Commission under Art. 59b.

Art. 96. (1) The members of a Diet enjoy the same immunity as the members of the National Council; the provisions of Art. 57 are applied analogously.

(2) The provisions of Arts. 32 and 33 hold good also for the meetings of Diets and their committees.

(3) Land law can determine upon a settlement in according with Art. 56 paras. 2 to 4 for Diet members who resign their seat on the occasion of their election to membership of the Federal Council or Land Government.

Art. 97. (1) A Land law requires a vote by a Diet, authentication and countersignature in accordance with the provisions of the Land concerned, and publication by the Governor in the Land Law Gazette.

(2) Inasmuch as a Land law foresees in its execution the 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 Governor that the co-operation of the Federal authorities is refused. Before the expiry of this deadline publication of the enactment may only ensue if the Federal Government has expressly agreed.

(3) If the immediate enactment of measures which constitutionally require the adoption of a resolution by the Diet becomes necessary to avert manifest, irreparable harm to the community as a whole in circumstances where the Diet is unable to meet in time or is impeded in its function by events beyond its control, the Land Government can in agreement with a Diet committee appointed in accordance with the principle of proportional representation take these measures by way of temporarily law-amending ordinances. The Land Government must inform the Federal Government thereof without delay. The Diet shall be convened as soon as the impediment to its meeting has ceased to be operative. Art. 18 para. 4 holds good analogously.

(4) The ordinances specified in para. 3 above may in any case not signify an alteration to Land constitutional provisions and may neither comprise a permanent financial burden for the Land nor a financial burden for the Federation or the municipalities, nor financial commitments for the state's nationals, nor a disposal of state property, nor measures pertaining to the matters specified in Art. 12

para. 1 sub-para. 6, nor lastly such as relate to the affairs of the chambers for workers and salaried employees engaged in agriculture and forestry.

Art. 98. (1) All Diet enactments shall immediately after they have been passed by a Diet be notified by the Governor to the Federal Chancellery 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 Diet enactment as a jeopardization of 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 enactment may only be published if the Diet repeats its vote in the presence of at least half the members.

(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 hold good for Diet enactments which deal with taxation.

Art. 99. (1) The Land Constitution to be enacted by a Land constitutional law can, inasmuch as the Federal Constitution is not affected thereby, be amended by Land constitutional law.

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

Art. 100. (1) Every Diet can be dissolved by the Federal President on the request of the Federal Government and with the sanction of the Federal Council; such a dissolution may however be decreed only once for the same reason. The motion in the Federal Council must be carried in the presence of half the members and with a two thirds majority of the votes cast. The representatives of the Land whose Diet is to be dissolved may not participate in the division.

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

Art. 101. (1) The executive power in each Land is exercised by a Land Government to be elected by the Diet.

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

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

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

Art. 102. (1) In the sphere of the Laender, in so far as no Federal authorities exist (direct Federal administration), the Governor and the Land authorities subordinate to him exercise the executive power of the Federation (indirect Federal administration). In so far as Federal authorities, especially Federal Police Directorates, are entrusted with the execution of matters which are performed as indirect Federal administration, these Federal authorities are subordinate to the Governor and bound by his instructions (Art. 20 para. 1); whether and to what extent such Federal authorities are entrusted with executive acts is regulated by Federal laws; these may, in so far as they do not concern the mandate stated in para. 2 below, only be published with the sanction of the Laender concerned.

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

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 monetary, credit,

stock exchange, banking and non-social insurance system, the weights and measures, standards and hallmark system , administration of justice, passports, residence registration, matters pertaining to weapons, ammunition and explosives as well as the use of fire-arms, patent matters and the protection of designs, trade marks, and other commodity description, the traffic system, river and navigation police, the postal and telecommunications system, mining, Danube control and conservation, regulation of torrents, construction and maintenance of waterways, surveying, labour legislation, social insurance, the preservation of monuments, organisation and command of the Federal police and the Federal gendarmerie, the maintenance of peace, order and security, including the extension of primary assistance in general, but excluding those of the local public safety administration, press affairs, matters pertaining to association and assembly, and the aliens police; commercial transactions in seed and plant commodities, in fodder and fertilizer as well as plant preservatives, and in plant safety appliances including their admission and, in the case of seed and plant commodities, likewise their acceptance; military affairs, welfare measures for combatants and their dependants, population policy in so far as it concerns the grant of children's allowances and the organization of burden equalization on behalf of families; schooling as well as education in matters pertaining to pupil and student hostels with the exception of agricultural and forestry education in matters pertaining to student hostels; public contract awards.

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

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

(5) If in a Land the immediate enactment of measures in matters pertaining to the direct Federal administration becomes necessary to avert manifest, irreparable harm to the community as a whole in circumstances where the highest authorities of the Federal administration are impeded by events beyond their control, the Governor must take the measures on their behalf.

Art. 102a. Deleted

Art. 103. (1) In matters of the indirect Federal administration the Governor is bound by instructions from the Federal Government and individual Federal Ministers (Art. 20) and he is obliged, in order to effect the implementation of such instructions, also to employ the powers available to him in his capacity as a functionary of the Land's autonomous sphere of competence.

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

(3) Instructions issued by the Federal Government or individual Federal Ministers in accordance with para. 1 above shall also in instances falling under para. 2 above be addressed to the Governor. The latter, should he not himself be conducting the relevant business of the indirect Federal administration, is responsible (Art. 142 para. 2 sub-para. e) for passing the instruction in writing without delay and unaltered to the Land Government member concerned and for supervising its implementation. If the instruction is not complied with, although the Governor has made the necessary arrangements, the Land Government member concerned is pursuant to Art. 142 responsible to the Federal Government as well.

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

Art. 104. (1) The provisions of Art. 102 shall not apply to agencies for the performance of Federal business specified in Art. 17.

(2) Nonetheless the Federal Minister entrusted with the administration of Federal assets can assign the performance of such business to a Governor and the authorities subordinate to him. Such an assignment can at any time be revoked in part or in whole. To what extent in exceptional instances the Federation makes recompense for the accrued costs of performing such business will be regulated by Federal law. Art. 103 paras. 2 and 3 apply analogously.

Art. 105. (1) The Governor represents the Land. In matters pertaining to the indirect Federal administration he is pursuant to Art. 142 responsible to the Federal Government. The Governor has a member of the Land Government to substitute for him (Deputy Governor) who is designated by the Land Government. This appointment shall be notified to the Federal Chancellor. Should the need for substitution occur, the member of the Land Government appointed as substitute is pursuant to Art. 142 likewise responsible to the Federal Government in matters pertaining to the indirect Federal administration. Immunity is no bar to the assertion of such responsibility on the part of the Governor or the member of the Land Government who substitutes for him. Immunity is likewise no bar to the assertion of responsibility on the part of a member of the Land Government in a case arising under Art. 103 para. 3.

(2) The members of the Land Government are responsible to the Diet pursuant to Art. 142.

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

Art. 106. An administrative civil servant with legal training will be appointed to take charge as The Land administration's chief executive of the Land Government Office's internal services. He is also the official assistant of the Governor in matters pertaining to the indirect Federal administration.

Art. 107. Repealed.

B. The Federal Capital Vienna

Art. 108. For the Federal capital, Vienna, in its capacity as a Land, the municipal council has additionally the function of the Diet, the city senate the function of the Land Government, the mayor the function of the Governor, the *City administration* the function of the Land Government Office, and the city administration's chief executive the function of the Land administration's chief executive.

Art. 109. In Land Vienna the chain of appeal in matters pertaining to the indirect Federal administration, unless precluded by Federal law, is from the *City administration* acting as district administrative authority or, in so far as Federal authorities are in the first instance entrusted with their execution (Art. 102, para. 1 second sentence), from them to the mayor in his capacity as Governor; in other respects Art. 103 para. 4 applies.

Art. 110. (Repealed)

Art. 111. The final decision in matters pertaining to building and taxation lies with special committees of officials. Their composition and appointment will be prescribed by Land law.

Art. 112. Allowing for Arts. 108 to 111 inclusive, the provisions in Section C of this Chapter hold good in other respects for the Federal capital Vienna, with the exception of Art. 117 para. 6 second sentence, Art. 119 para. 4 and Art. 119a. Art. 142 para. 2 sub-para. e also applies to the conduct of the sphere of competence assigned by the Federation to the Federal capital, Vienna.

Art. 113. Repealed.

Art. 114. Repealed.

C. municipalities

Art. 115. (1) In so far as in the following Articles the term municipality is used, the reference is to be taken as meaning local community.

(2) Save as competence on the part of the Federation is expressly stipulated, Land legislation shall prescribe laws pertaining to municipalities in accordance with the principles of the Articles contained in

this Section. Competence for the settlement of matters which, pursuant to Arts. 118, 118a and 119, are to be performed by the municipalities will be determined in accordance with the general provisions of this Federal Constitutional Law.

(3) The Austrian Association of municipalities (Austrian Communal Federation) and the Austrian Association of Cities and Towns (Austrian Municipal Federation) are competent to represent the interests of the municipalities.

Art. 116. (1) Every Land is divided into municipalities. The municipality is a territorial corporate body entitled to self-administration while being at the same time an administrative local district. Every piece of land must form part of a municipality.

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

(3) A municipality with at least 20,000 inhabitants shall at its own request, if Land interests are not thereby jeopardized, be awarded its own charter by way of Land legislation. Such an enactment may only be published with Federal Government approval. This shall be deemed given if the Federal Government within eight weeks from the day of the enactment's arrival at the competent Federal Ministry has not informed the Governor that the approval is refused. A town with its own charter shall perform besides its municipal administrative duties also those of the district administration.

(4) (Repealed)

Art. 116a. For the performance of specific matters within their own sphere of competence municipalities can by agreement combine in municipality associations. Such an agreement requires the sanction of the supervisory authority. The sanction shall be conferred by ordinance if a lawful agreement between the municipalities concerned is on hand and the formation of the municipal association

1. does not in the case of performance of tasks appurtenant to the juridical administration jeopardize the function of the municipalities concerned as self-administrative corporate bodies,
2. in the case of performance of tasks appurtenant to the municipalities as holders of private rights it lies for reasons of expediency, economic efficiency, and thrift in the interest of the municipalities concerned.

(2) In the interest of expediency the competent legislation (Arts. 10 to 15) can provide for the performance of specific tasks by the formation of municipal associations, but the function of the municipalities as self-administrative corporate bodies and administrative local districts may not thereby be jeopardized. The municipalities concerned shall by way of an executive measure be given a hearing prior to the formation of municipal associations.

(3) In so far as municipal associations are to undertake matters pertaining to the municipality's own sphere of competence, the members of the municipal association shall be accorded decisive influence upon the performance of the municipal association's functions.

(4) The Land legislature shall prescribe the organization of the municipal association and in this connection it shall provide for an association board, which must in any case consist of elected representatives from all member municipalities, and an association chairman. Rules shall moreover be established, in the case of municipal associations formed by agreement, as regards admission to and withdrawal from the municipal association as well as its dissolution.

(5) Competence as to the regulation of matters to be undertaken by the municipal associations is governed by the general provisions of this Federal Constitutional Law.

Art. 117. (1) The authorities of the municipality shall in every instance include:

a) the municipal council, being a popular representative body to be elected by those entitled to vote in the municipality;

b) the municipal executive board, also known as the city council, or in towns with their own charter the city senate;

c) the mayor.

(2) Elections to the municipal council take place on the basis of proportional representation by equal, direct, secret and personal suffrage of all Federal nationals who have their principal domicile in the municipality; Land laws can however stipulate that also nationals who have a domicile, but not their principal domicile, in the municipality are entitled to vote. In the electoral regulations the conditions for suffrage and electoral eligibility may not be more restrictive than in the electoral regulations for the Diet. The provision can however be made that individuals who have not yet been a year resident in the municipality shall not be entitled to vote or to stand for election to the municipal council if their residence in the municipality is manifestly temporary. Among the conditions to be laid down by the Laender is the entitlement to suffrage and electoral eligibility also for nationals of other European member states. The provisions about compulsory voting in the elections to the Diet (Art. 95 para. 1 last sentence) apply analogously to elections to the municipal council. The electoral regulations can provide that the voters exercise their suffrage in self-contained constituencies unit. A division of the electorate into other electoral bodies is not admissible. The electoral regulations can provide that the voters exercise their suffrage in The electoral regulations can, in cases where no election proposals are brought forward, decree that individuals shall be deemed elected whose names appear most frequently on the ballot papers.

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

(4) Meetings of the municipal council are public, but provision can be made for exceptions. The public may not be excluded when the municipal budget or the municipal final accounts are on the agenda.

(5) Electoral parties represented in the municipal council have a claim to representation on the municipal executive board in accordance with their strength.

(6) The mayor shall be elected by the municipal council. Land constitution can however stipulate that the mayor shall be elected by those with municipal council suffrage.

(7) The business of the municipalities will be performed by the local administrative office or city administrative office, that of towns with their own charter by the *City administration*. A civil servant with legal training shall be appointed to take charge as city administration's chief executive of the *City administration*'s internal services.

(8) The Land legislature can in matters pertaining to the municipality's own sphere of competence provide for the direct participation and assistance of those entitled to vote in the municipal council election.

Art. 118. (1) A municipality has its own sphere of competence and one assigned to it either by the Federation or the Land.

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

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

1. appointment of the municipal authorities, notwithstanding the competence of supra-local election boards; settlement of the internal arrangements for performance of the municipal functions;
2. appointment of the municipal staff and exercise of the service prerogative over them, notwithstanding the competence of supra-local disciplinary, eligibility and exam commissions;

3. local public security police (Art. 15 para. 2), local events control;
4. administration of municipal traffic areas, local traffic police;
5. crops protection police;
6. local market police;
7. local sanitary police, especially in the field of emergency and first aid services as well as matters pertaining to deaths and interment;
8. public decency;
9. local building police excluding Federal-owned buildings which serve public purposes (Art. 15 para. 5); local fire control; local environment planning;
10. public institutions for extra-judicial settlement of disputes;
11. debtors' sale of goods.

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

(5) The mayor, the members of the municipal executive board (city council, city senate) and, if appointed, other municipal officials are responsible to the municipal council for the performance of their functions relating to the municipality's own sphere of competence.

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

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

(8) The establishment of a municipal constabulary or a change in its organization must be notified to the Federal government.

Art. 118a. (1) Federal or Land law may provide that with the approval of the municipality the members of a municipal constabulary may be empowered to perform executive services for the competent authority.

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

Art. 119. (1) The assigned sphere of competence comprises those matters which the municipality in accordance with Federal laws must undertake at the order and in accordance with the instructions of the Federation or in accordance with Land laws at the order and in accordance with instructions of the Land.

(2) The business of the assigned sphere of competence is performed by the mayor. In doing so, he is in matters pertaining to Federal execution bound by instructions from the competent Federal authorities, in matters pertaining to Land execution by instructions from the competent Land authorities; he is responsible in accordance with para. 4 below.

(3) The mayor can – without detraction from his responsibility – on account of their factual connection with matters pertaining to the municipality's own sphere of competence transfer individual categories of matters pertaining to the assigned sphere of competence to members of the municipal executive board (city council, city senate), other authorities created in accordance with Art. 117 para. 1, or members of official bodies for performance in his name. In these matters the authorities concerned or their members are bound by the instructions of the mayor and responsible in accordance with para. 4 below.

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

Art. 119a. (1) The Federation and the Land exercise the right of supervision over a municipality to the purpose that it does not infringe laws and ordinances in dealing with its own sphere of competence, in particular does not overstep its sphere of competence, and fulfills the duties legally devolving upon it.

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

(3) In so far as a municipality's own sphere of competence comprises matters deriving from the sphere of Federal execution, the right of supervision and its legislative regulation lie with the Federation, in other respects with the Laender; the right of supervision shall be exercised by the authorities of the ordinary public administration.

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

(5) Whoever alleges infringement of his rights through the ruling of a municipal authority in matters pertaining to its own sphere of competence can, after exhaustion of all channels of appeal (Art. 118 para. 4), within two weeks after issue of the ruling make representations against it to the supervisory authority. The latter shall rescind the ruling, if the rights of the intervener have been infringed by it, and refer the matter for a fresh decision to the municipality. For towns with their own charter the competent legislature (para. 3) can direct that representation to the supervisory authority does not take place.

(6) The municipality 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 municipality rescind ordinances which are contrary to law and simultaneously advise the municipality of the reasons.

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

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

(9) The municipality has the status of a party to supervisory authority proceedings; it is entitled to lodge complaint with the Administrative Court (Arts. 131 and 132) and with the Constitutional Court (Art. 144) against the supervisory authority.

(10) The provisions of this Article shall find corresponding application to supervision of municipal associations in so far as these perform matters pertaining to a municipality's own sphere of competence.

Art. 120. The combination of local communities into territorial communities, their organization in line with the pattern of self-administration, and the determination of other principles for the organization of the ordinary public administration in the Laender is the business of Federal constitutional legislation; its implementation devolves upon the Land legislatures. Settlement of the competence in matters pertaining to the service code for and staff representation rights of the territorial community employees is the business of Federal constitutional legislation.

Chapter V
Control of Public Accounts and Administration of Public Funds

Art. 121. (1) Competent to examine the administration of public funds by the Federation, the Laender, the municipal associations, the municipalities and other legal entities determined by law is the Public Audit Office.

(2) The Public Audit Office draws up the final Federal budget accounts and submits them to the National Council.

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

(4) Every second year the Public Audit Office shall in the case of undertakings and agencies subject to its control and on which it has a duty to report to the National Council ascertain by a request for information from these undertakings and agencies the average incomes, including all social service payments, contributions in kind, and additional retirement benefits, of members of the management board and the supervisory board as well as of all employees and report thereon to the National Council. The average incomes of the foregoing categories of persons shall in this connection be shown separately for each undertaking and each agency.

Art. 122. (1) The Public Audit Office is directly subordinate to the National Council. It acts as agent for the National Council in matters pertaining to Federal administration of public funds and the financial administration of professional corporations in so far as they come under the executive authority of the Federation, as agent for the Diet concerned in matters pertaining to Laender, municipal associations, and municipal administration of public funds as well as the financial administration of professional corporations in so far as they come under the executive authority of the Laender.

(2) The Public Audit Office is independent of the Federal Government and the Land Governments and subject only to the provisions of the law.

(3) The Public Audit Office consists of a President and the requisite officials and auxiliary personnel.

(4) The President of the Public Audit Office is elected on the proposal of the Main Committee of the National Council for a twelve years period of office; re-election is inadmissible. Before his assumption of office he renders an affirmation to the Federal President.

(5) The President of the Public Audit Office may neither belong to any popular representative body nor during the past four years have held office in the Federal Government.

Art. 123. (1) With regard to accountability the President of the Public Audit Office has the same status as members of the Federal Government or of members of the Land Government concerned, depending on whether the Public Audit Office acts as agent of the National Council or a Diet.

(2) The President of the Public Audit Office can be relieved of office by a vote of the National Council.

Art. 123a. (1) The President of the Public Audit Office is entitled to participate in the debate by the National Council and its committees (sub-committees) on reports by the Public Audit Office, on the final Federal budget accounts, on motions concerning implementation of specific actions in the Public Audit Office's examination of the administration of public funds, and on the sections relating to the Public Audit Office in the Federal Finance Act.

(2) The President of the Public Audit Office has, in accordance with the detailed provisions of the Federal law on the National Council's Standing Orders, always the right at his own request to be heard in the debates on the subjects listed in para. 1 above.

Art. 124. (1) Should the President of the Public Audit Office be prevented from the discharge of his responsibilities, the senior official of the Public Audit Office will act for him. This also holds good if the office of President is vacant. Who shall act in the National Council as deputy for the President of the Public Audit Office is settled by the Federal law on the National Council's Standing Orders.

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

Art. 125. (1) The officials of the Public Audit Office are appointed by the Federal President upon the recommendation and with the countersignature of the President of the Public Audit Office; the same holds good for the conferment of the official titles. The Federal President may however authorize the President of the Public Audit Office to appoint officials of certain categories.

(2) The President of the Public Audit Office appoints the auxiliary personnel.

(3) The Federal service prerogative with regard to employees of the Public Audit Office is exercised by the President of the Public Audit Office.

Art. 126. No member of the Public Audit Office may be a participant in the management and administration of enterprises subject to control by the Public Audit Office. Just as little may a member of the Public Audit Office participate in the management and administration of any other enterprises operating for profit.

Art. 126a. Should divergences of opinion arise between the Public Audit Office and a legal entity (Art. 121 para. 1) on interpretation of the legal provisions which prescribe the competence of the Public Audit Office, the Constitutional Court decides the issue upon application by the Federal Government or a Land Government or the Public Audit Office. All legal entities must in accordance with the legal opinion of the Constitutional Court render possible a scrutiny by the Public Audit Office.

Art. 126b. (1) The Public Audit Office shall examine the entire management of the Federation and furthermore the financial administration of endowments, funds and institutions administered by Federal authorities or persons (groups of persons) appointed for the purpose by authorities of the Federation.

(2) The Public Audit Office also examines the financial administration of enterprises where the Federation is either the sole participant or holds at least fifty per cent of the share, stock, or equity capital together with other legal entities falling within the competence of the Public Audit Office or where the 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, other economic, or organizational measures. The competence of the Public Audit Office extends moreover to enterprises of any additional category where the conditions pursuant to this paragraph exist.

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

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

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

Art. 126c. The Public Audit Office is competent to examine the financial administration of the social insurance institutions.

Art. 126d. (1) The Public Audit Office annually renders the National Council not later than 31 December in any year a report on its activities. The Public Audit Office can moreover at any time report to the National Council its observations on individual matters and, if necessary, make proposals. The Public Audit Office must simultaneously with its submission to the National Council inform the Federal Government of every report. The Public Audit Office's reports shall be published after submission to the National Council.

(2) A Standing Committee shall be appointed by the National Council to discuss the reports of the Public Audit Office. Its appointment shall maintain the principle of proportional representation.

Art. 127. (1) The Public Audit Office shall examine the financial administration of the Laender in their autonomous sphere of competence as well as the financial administration of endowments, funds and institutions administered by the authorities of a Land or persons (groups of persons) appointed for the purpose by authorities of the Land. The examination shall extend to arithmetical correctness, compliance with existing regulations, and the employment of thrift, efficiency and expedience in the financial administration; it shall not however include the resolutions passed by the constitutionally competent representative bodies with respect to the financial administration.

(2) The Land Governments shall annually transmit to the Public Audit Office the budget estimates and the final budget accounts.

(3) The Public Audit Office also examines the financial administration of enterprises where the Land is either the sole participant or holds at least fifty per cent of the share, stock, or equity capital together with other legal entities falling within the competence of the Public Audit Office or where the Land is either their sole or joint operator with other such legal entities. As regards the concept of financial participation Art. 126b para. 2 holds good analogously. The competence of the Public Audit Office extends moreover to enterprises of any additional category where the conditions pursuant to this paragraph exist.

(4) The Public Audit Office is competent to examine the financial administration of corporations under public law using Land funds.

(5) The result of its examination is communicated by the Public Audit Office to the Land concerned. The latter shall comment upon this and within three months advice the Public Audit Office of the measures taken by reason of the examination's result.

(6) The Public Audit Office annually renders the Diet, at the latest by 31 December in any year, a report on those of its activities relating to the Land. The Public Audit Office can moreover at any time report to the Diet its observations on individual matters. The Land Government and the Federal Government must be informed of every report by the Public Audit Office simultaneously with its submission to the Diet. The Public Audit Office's reports shall be published after submission to the Diet.

(7) On a vote by the Diet or at the request of Diet members, their numbers regulated by Land constitutional law but not permitted to exceed one third, the Public Audit Office shall carry out special measures of investigation which fall into its sphere of competence. As long as the Public Audit Office has by reason of such a motion not rendered the Diet a report, no additional motion of such kind may be proposed. The Public Audit Office must likewise carry out such measures at the substantiated request of a Land Government and report the result to the applicant authority.

(8) The provisions of this Article also hold good for the examination into the financial administration of the City of Vienna, the municipal council taking the place of the Diet and the city senate taking the place of the Land Government.

Art. 127a. (1) The Public Audit Office shall examine the financial administration of municipalities with at least 20.000 inhabitants as well as the financial administration of endowments, funds and institutions administered by the authorities of a municipality or persons (groups of persons) appointed for the purpose by the authorities of a municipality. The examination shall extend to the arithmetical correctness, compliance with existing regulations, and the employment of thrift, efficiency and expediency in the financial administration.

(2) The mayor shall annually transmit to the Public Audit Office and simultaneously to the Land Government the budget estimates and the final budget accounts.

(3) The Public Audit Office also examines the financial administration of enterprises where a municipality with at least 20.000 inhabitants is either the sole participant or holds at least fifty per cent of the share, stock, or equity capital together with other legal entities falling within the competence of the Public Audit Office or where the municipality is either their sole or joint operator with other such legal entities. As regards the concept of financial participation Art. 126b para. 2 holds good analogously. The competence of the Public Audit Office extends moreover to enterprises of any additional category where the conditions pursuant to this paragraph exist.

(4) The Public Audit Office is competent to examine the financial administration of corporations under public law using funds of a municipality with at least 20,000 inhabitants.

(5) The result of its examination is transmitted by the Public Audit Office to the mayor. The latter shall comment upon this and within three months advise the Public Audit Office of the measures taken by reason of the examinations's result. The Public Audit Office shall advise the Land Government and the Federal Government of the result of its examination into the financial administration together with any possible comment by the mayor.

(6) The Public Audit Office annually renders the municipal council, at the latest by 31 December, a report on its activities in so far as they concern the municipality. The Land Government and the Federal Government must likewise be informed of every report by the Public Audit Office simultaneously with its submission to the municipal council. The reports shall be published after submission to the municipal council.

(7) The Public Audit Office shall also at the substantiated request of the competent Land Government examine in individual cases the financial administration of municipalities with less than 20,000 inhabitants and inform the Land Government of the result of this examination. Paras. 1 and 3 of this Article are applied analogously.

(8) The provisions holding good for the examination of the financial administration of municipalities with at least 20,000 inhabitants shall apply analogously to the examination of the financial administration of municipal associations.

Art. 127b. (1) The Public Audit Office ist entitled to examine the financial administration of the professional corporations.

(2) The professional corporations shall annually transmit to the Public Audit Office the budget estimates and the final budget accounts.

(3) The examination by the Public Audit Office shall extend to arithmetcial correctness, compliance with existing regulations, and the employment of thrift and efficiency in the financial administration; this examination does not however include resolutions by the competent authorities of the professional corporations governing the financial administration on behalf of tasks relating to representation of their members' interests.

(4) The Public Audit Office shall notify the Chairman of the constituent authority (representative body) of the professional corporation of the result of the examination together with any possible opinion thereon to the constituent authority (representative body) of the professional corporation. The Public Audit Office shall at the same time inform likewise the authority competent at the highest level for supervision of the

professional corporation as regards the result of its examination. The reports of the Public Audit Office shall be published after submission to the constituent authority (representative body).

Article 127c If the Laender, for their sphere of competence, create institutions equivalent to the Public Audit Office, Land constitutional law may provide for a regulation corresponding to Art. 126a, first sentence. In such case, sentences two to four of Art. 126a apply as well.

Art. 128. The more detailed provisions about the organization and activity of the Public Audit Office will be laid down by Federal law.

Chapter VI
Constitutional and Administrative Guarantees

Art. 129. The authorities competent to secure the legality of all acts of administration are the independent administrative tribunals and the Administrative Court at Vienna.

A. Independent Administrative Tribunals in the Laender

Art. 129a. (1) The independent administrative tribunals pronounce judgment after exhaustion of the administrative appeal stages, in so far as such come into consideration,

1. in proceedings on the ground of administrative contraventions, Federal fiscal penal cases excepted,
2. on complaints by persons who allege infringement of their rights through the exercise of direct administrative power and compulsion, Federal fiscal penal cases excepted,
3. in other matters which by the Federal or Land laws regulating individual areas of the administration are assigned to them,
4. on complaints on the ground of contravention of the onus for decision in matters relating to sub-para. 1 above in so far as civil action business or penal tax law regulated by Land legislation is concerned, and sub-para. 3 above.

(2) Legislative provision can be made for appeals against decisions of first instance being able to be taken directly to an independent administrative tribunal. Such Federal laws may be published in matters relating to indirect Federal administration as well as to Arts. 11 and 12 only with agreement of the Laender concerned.

(3) Art. 89 applies analogously to the independent administrative tribunals.

Art. 129b. (1) The independent administrative tribunals consist of a Chairman, a Deputy Chairman, and the requisite number of other members. The Land Government appoints members for at least six years. No fewer than a quarter of the members have to be drawn from professional appointments in the Federation.

(2) The members of the independent administrative tribunals are not bound by any instructions in the performance of the tasks referred to them in accordance with Arts. 129a and 129b. Business shall be allocated in advance among members of the independent administrative tribunals for the period regulated by Land legislation; a matter devolving upon a member of an independent administrative tribunal in accordance with this allocation may only in case of his being prevented from the discharge of his responsibilities be removed from him at the ruling of the Chairman.

(3) Members of the independent administrative tribunals may before expiry of the period of appointment be removed from office only in the legally specified instances and only at the resolution of the independent administrative tribunal.

(4) The members of the independent administrative tribunals must be jurists. For their period of office they may not practise any activity liable to evoke doubts as to the independent conduct of their office.

(5) In accordance with the Federal law regulating procedure before independent administrative tribunals the decisions of these authorities are delivered by one or more members.

(6) The organization of the independent administrative tribunals and the service code of their members is regulated by Land law, the procedure by Federal law.

B. Independent Federal Asylum Tribunal

Art. 129c. (1) A further independent administrative body can be set up by Federal act as the supreme appellate authority in asylum cases (Independent Federal Asylum Tribunal).

(2) The Independent Federal Asylum Tribunal consists of a Chairman, a Deputy Chairman, and the requisite number of other members. The Federal President appoints the members upon recommendation of the Federal Government. Appointments are made for an indefinite time.

(3) The members of the Tribunal are not bound by any instructions in the performance of the tasks referred to them. Business shall be allocated by the Independent Federal Asylum Tribunal, as a collegial body, among the members each year in advance; a matter devolving upon a member in accordance with this allocation may only in case of his being prevented from the discharge of his responsibilities be removed from him at the ruling of the Chairman.

(4) A law will prescribe an age limit upon whose attainment members of the Independent Federal Asylum Tribunal will be put on the permanently retired list. Otherwise they may be removed from office only in the cases prescribed by law and only by reason of a decision of the Independent Federal Asylum Tribunal.

(5) The members of the Tribunal must be jurists. For their period of office, they may not practise any activity liable to evoke doubt as to the independent conduct of their office.

(6) Art. 89 applies analogously to the Independent Federal Asylum Tribunal.

(7) Detailed provisions will be prescribed by Federal law. In particular, they will regulate what matters will be decided by several members of the Tribunal and what matters will be decided by a single member.

C. The Administrative Court

Art. 130. (1) The Administrative Court pronounces on complaints which allege

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

b) breach of the onus on administrative authorities including the independent administrative tribunals to take a decision.

The Administrative Court furthermore pronounces on complaints against instructions received pursuant to Art. 81a para. 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.

Art. 131. (1) Complaint on the score of illegality can be brought against the ruling of an administrative authority by

1. anyone who, after exhaustion of all appellate stages, alleges that the ruling infringes their rights;
2. the competent Federal Minister in matters pertaining to Arts. 11, 12, 14 paras. 2 and 3 and 14a paras. 3 and 4 as well as in those matters where the ruling of a Land 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;
3. the competent Land government against rulings by the Federal Minister competent in matters pertaining to the first sentence in Art. 15 para. 5;

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

(3) The Administrative Court can dismiss the hearing of a complaint against a ruling by an independent administrative panel or the Federal Procurement Authority if the decision does not depend on a legal issue of basic importance, especially inasmuch as the independent administrative panel's or the Federal Procurement Authority's adjudication deviates from that of the Administrative Court, such adjudication is lacking or the legal issue in question has in the Administrative Court's adjudication not as yet been uniformly settled, in an administrative penal suit, moreover, only if a small monetary penalty was imposed.independent

Art. 131a. (Repealed)

Art. 132. Complaint for breach of the onus to take a decision by administrative authorities including the independent administrative tribunals can be brought by the party who in administrative proceedings was entitled to claim fulfilment of that onus of decision. A complaint for breach of the onus to take a decision in administrative penal cases is inadmissible; this does not apply to private suits and to fiscal penal cases .

Art. 133. The following matters are excluded from the jurisdiction of the Administrative Court:

1. matters pertaining to the jurisdiction of the Constitutional Court:
2. Repealed;
3. patent matters;
4. matter where the final decision rests with a tribunal if, in accordance with the Federal or Land 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.

Art. 134. (1) The Administrative Court consists of a President, a Vice-President, and the requisite number of other members (chamber presidents and Court councillors).

(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 not concerned, on the basis of recommendations 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 jurisprudence or in legal and political science and for at least ten years have held a professional appointment which prescribes the graduation in 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 Laender, whenever possible from the Laender's administrative service.

(4) Members of the Federal Government, a Land 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 para. 4 above 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 Art. 87 paras. 1 and 2 and Art. 88 para. 2 apply to them. Members of the Administrative Court are by operation of law put on the permanently retired list on 31 December of the year in which they attain their sixty fifth birthday.

Art. 135. (1) The Administrative Court pronounces judgment through chambers 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 chambers.

(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) Art. 89 applies analogously to the Administrative Court.

Art. 136. Detailed provisions about organization, scope and procedure of the Administrative Court will be prescribed in a special Federal law and Standing Orders to be passed on the basis of this by the plenary assembly.

D. The Constitutional Court

Art. 137. The Constitutional Court pronounces on pecuniary claims on the Federation, the Laender, the Bezirke, the municipalities and municipal associations which cannot be settled by ordinary legal process nor be liquidated by the ruling of an administrative authority.

Art. 138. (1) The Constitutional Court furthermore pronounces on conflicts of competence

a) between courts and administrative authorities;

b) between the Administrative Court and all other courts, in particular too between the Administrative Court and the Constitutional Court itself, as well as between the ordinary courts and other courts;

c) between the Laender amongst themselves as well as between a Land and the Federation.

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

Art. 138a. (1) The Constitutional Court establishes on application by the Federal Government or a Land Government concerned whether an agreement within the meaning of Art. 15a para. 1 exists and whether the obligations arising from such an agreement, save in so far as it is a matter of pecuniary claims, have been fulfilled.

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

Art. 139. (1) The Constitutional Court pronounces on application by a court, an independent administrative panel or the Federal Procurement Authority, whether ordinances issued by a Federal of Land 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 Land authority are contrary to law and likewise on application by the municipality concerned whether ordinances issued by a municipal affairs supervisory authority in accordance with Art. 119a para. 6 are contrary to law. It pronounces furthermore 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; Art. 89 para. 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 Constitutional Court, receives satisfaction, the proceedings initiated to examine the ordinance's legality shall nevertheless continue.

(3) The Constitutional Court may rescind an ordinance as contrary to law only to the extent that its rescission was expressly 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 hold good if rescission of the whole ordinance manifestly runs contrary to the legitimate interests of the litigant who has filed an application pursuant to the last sentence in para. 1 above 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, by an independent administrative panel, by the Federal Procurement Authority 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. Para. 3 above applies analogously.

(5) The judgment by the Constitutional Court which rescinds an ordinance as contrary to law imposes on the highest competent Federal or Land authority in the the obligation to publish the rescission without delay. This applies analogously in the case of a pronouncement pursuant to para. 4 above. The rescission enters into force upon expiry of the day of publication if the Court does not set a deadline, which may not exceed six months or if legal dispositions are necessary 18 months, for the rescission.

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

Art. 139a. The Constitutional Court pronounces on application by a court, by an independent administrative panel or by the Federal Procurement Authority the unlawfulness of promulgations regarding the re-notification of an act (a treaty); *ex officio*, in so far as the Constitutional Court would have to apply such promulgation concerning a pending legal matter It pronounces unlawfulness of such promulgations of any of the Laender also upon request of the Federal Government and unlawfulness of such promulgations of the Federation also upon request of a government of any of the Laender. It pronounces furthermore unlawfulness of such promulgations also when an application alleges direct infringement of personal rights by such unlawfulness in so far as the promulgation has become operative against the applicant without the delivery of a judicial decision or the issue of a ruling. Art. 59 paras. 2, 3 and 5 as well as Art. 139 paras. 2 to 6 shall apply analogously.

Art. 140. (1) The Constitutional Court pronounces on application by the Administrative Court, the Supreme Court, a competent appellate court, an independent administrative panel or by the Federal Procurement Authority whether a Federal or Land 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 als on application by the Federal Government whether Land laws are unconstitutional and likewise on application by a Land Government, by one third of the National Council's members, or by one third of the Federal Council's members whether Federal laws are unconstitutional. A Land constitutional law can provide that such a right of application as regards the unconstitutionality of Land laws lies with one third of the Diet's members. The Court pronounces furthermore 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; Art. 89 para. 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 hold good if rescission of the whole law manifestly runs contrary to the legitimate interests of the litigant who has filed an application pursuant to the last sentence in para. 1 above 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, by an independent administrative panel, by the Federal Procurement Authority or by an applicant alleging direct infringement of personal rights through the law's unconstitutionality, the Court must pronounce whether the law was unconstitutional. Para. 3 above applies analogously.

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

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

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

Art. 140a. (1) The Constitutional Court pronounces whether treaties are contrary to law. Art. 140 shall apply to treaties concluded with the sanction of the National Council pursuant to Art. 50 and to law-modifying of law-amending treaties pursuant to Art. 16 para. 1, Art. 139 to all other treaties with the proviso 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 in the case of treaties specified in Art. 50 and of law-modifying or law-amending treaties pursuant to Art. 16 para. 1 exceed two years, in the case of all others one year.

(2) If the Constitutional Court establishes that a treaty is contrary to law or unconstitutional, a regulation of the Federal President concerning such treaty shall become ineffective under Art. 65 para 1 and a resolution of the National Council shall become ineffective under Art. 50 para 2 upon expiry of the day of the promulgation of the decision.

Art. 141. (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 Land Government and to municipal authorities entrusted with executive power;

c) application by a popular representative body for a loss of seat by one of its members; application by at least eleven member of the European Parliament from the Republic of Austria for a loss of seat by a member from the Republic of Austria;

d) application by a constituent authority (representative body) of a statutory professional association 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 municipal 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 Laender 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.

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 the European Parliament, in a municipal 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 para. 1 sub-para. a above is allowed and it thereby becomes necessary to hold the election to a popular representative body, to the European Parliament or to a constituent authority of a statutory professional association in whole or in part again, the representative body's members concerned lose their seat at the time when it is assumed by those elected at the ballot which has to be held within a hundred days after delivery of the Constitutional Court's decision.

(3) The premises for a decision by the Constitutional Court in challenges to the result of initiatives, consultations of the people, 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 has taken place, can also be laid down by Federal law.

Art. 142. (1) The Constitutional Court pronounces on suits which predicate the constitutional responsibility of the highest Federal and Land authorities for legal contraventions culpably ensuing from their official activity.

(2) Suit can be brought:

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

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

c) against an Austrian representative in the Council for contravention of law in matters where legislation would pertain to the Federation: by a vote of the National Council for contravention of law in matters where legislation would pertain to the Laender: by identically worded votes of all the Diets;

d) against members of a Land Government and the authorities placed by the present Law or the Land constitution regard to responsibility on an equal footing with them, for contravention of the law: by a vote of the competent Diet;

e) against a Governor, his deputy (Art. 105 para. 1) or a member of the Land Government (Art. 103 paras. 2 and 3) for contravention of the law as well as for non-compliance with ordinances or other directives (instructions) of the Federation in matters pertaining to the indirect Federal administration, in the case of a member of the Land Government also with regard to instructions from the Governor in these matters: by a vote of the Federal Government;

f) against the authorities of the Federal capital Vienna, in so far as within its autonomous sphere of competence they perform functions from the domain of the Federal executive power, for contravention of the law: by a vote of the Federal Government;

g) against a Governor for non-compliance with an instruction pursuant to Art. 14 para. 8: by a vote of the Federal Government;

h) against a president or executive president of a Land school board, for contravention of the law as well as for non-compliance with ordinances or other directives (instructions) of the Federation: by a vote of the Federal Government;

i) against members of a Land Government for contravention of the law as well as for non-compliance with ordinances of the Federation in matters relating to Art. 11 para. 1 sub-para. 7 as well as for obstruction of the powers pursuant to Art. 11 para. 9: by a vote of the National Council or the Federal Government.

(3) If pursuant to para. 2 sub-para. e above the Federal Government brings a suit only against a Governor or his deputy and it is shown that another member of the Land Government in accordance with Art. 103 para. 2 concerned with matters pertaining to the indirect Federal administration is guilty of an offence within the meaning of para. 2 sub-para. e above, the Federal Government can at any time pending the passing of judgment widen its suit to include this member of the Land Government.

(4) The condemnation by the Constitutional Court shall pronounce a forfeiture of office and, in particularly aggravating circumstances, also a temporary forfeiture of political rights. In the case of minor legal contraventions in the instances mentioned in para. 2 sub-paras. c, e, g and h above the Court can confine itself to the statement that the law has been contravened. From forfeiture of the office of president of the Land school board ensues forfeiture of the office with which pursuant to Art. 81a para. 3 sub-para. b it is linked.

(5) The Federal President can avail himself of the right vested in him in accordance with Art. 65 para. 2 subpara. c only on the request of the representative body or the representative bodies which voted for the filing of the suit, but if the Federal Government has voted for the filing of the suit only at its request, and in all cases only with the approval of the defendant.

Art. 143. A suit can be brought against the persons mentioned in Art. 142 also on the score of actions involving penal proceedings connected with the activity in office of the individual to be arraigned. In this case competence lies exclusively with the Constitutional Court; any investigation already pending in the ordinary criminal courts devolves upon it. The Court can in such cases, in addition to Art. 142 para. 4, apply the provisions of the criminal law.

Art. 144. (1) The Constitutional Court pronounces on rulings by administrative authorities including the independent administrative tribunals in so far as the appellant 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 unlawful promulgation regarding the re-notification of an act (a treaty), an unconstitutional law, or an unlawful treaty. The complaint can only be filed after all other stages of legal remedy have been exhausted.

(2) The Constitutional Court can before the proceedings decide to reject a hearing of a complaint if it has no reasonable prospect of success or if the decision cannot be expected to clarify a constitutional problem. The rejection of the hearing is inadmissible if the case at hand according to Art. 133 is barred from the competence of the Administrative Court.

(3) If the Constitutional Court finds that a right within the meaning of para. 1 above has not been infringed by the challenged ruling and if the case at hand is not in accordance with Art. 133 barred from the competence of the Administrative Court, the Court shall on the request of the applicant transfer the complaint to the Administrative Court for decision whether the applicant sustained by the ruling the infringement of any other right. This applies analogously in the case of decisions in accordance with para. 2 above.

Art. 145. The Constitutional Court pronounces judgment on contraventions of international law in accordance with the provisions of a special Federal law.

Art. 146. (1) The enforcement of judgments pronounced by the Constitutional Court under Art. 126a, Art 127c and Art. 137 is implemented by the ordinary courts.

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

Art. 147. (1) The Constitutional Court consists of a President, a Vice-President, twelve additional members and six substitute members.

(2) The President, the Vice-President, six additional members and three substitute members are appointed by the Federal President on the recommendation of the Federal Government; these members and substitute members shall be selected from among judges, administrative officials, and professors holding a chair in law. The remaining six members and three substitute members are appointed by the Federal President on the basis of proposals submitted by the National Council for three members and two substitute members and by the Federal Council for three members and one substitute member. Three members and two substitute members must have their domicile outside the Federal capital, Vienna. Administrative officials on active service who are appointed members or substitute members shall be exempted, with their pay terminating, from all official duties. This shall not apply to administrative officials appointed substitute members who for the term of such exemption have been freed from all activities in the pursuit of which they are bound by instructions.

(3) The President, the Vice-President, and the other members and substitute members must be graduates of the studies in legal sciences or of law and political science and for at least ten years have held a professional appointment which prescribes the graduation in these studies.

(4) The following cannot belong to the Constitutional Court: members of the Federal Government or a Land Government, furthermore members of the National Council, the Federal Council, 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 in the employ 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 para. 4 above cannot be appointed President or Vice-President of the Constitutional Court.

(6) Art. 87 paras. 1 and 2 and Art. 88 para. 2 apply to members and substitute members of the Constitutional Court; detailed provisions will be prescribed in the Federal law to be promulgated pursuant to Art. 148. The 31 December of the year in which 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.

Art. 148. Detailed provisions about the organization and procedure of the Constitutional Court will be prescribed by a special Federal law and in Standing Orders to be voted by the Constitutional Court on the basis of this.

Chapter VII
ombudsman board

Art. 148a. (1) Everyone can lodge complaint with the ombudsman board (Commission for Complaints from the Public) against alleged maladministration by the Federation, including its activity as a holder of private rights, provided that they are affected by such maladministration and in so far as they do not or no longer have recourse to legal remedy. All such complaints must be investigated by the ombudsman board. The complainant shall be informed of the investigation's outcome and what action, if necessary, has been taken.

(2) The ombudsman board is *ex officio* entitled to investigate its suspicions of maladministration by the Federation including its activity as a holder of private rights.

(3) It is moreover incumbent on the ombudsman board to assist in the disposal of petitions and group memorials presented to the National Council. The Federal law on the National Council's Standing Orders stipulates the details.

(4) The ombudsman board is independent in the exercise of its authority.

Art. 148b. (1) All Federal, Laender, and municipal authorities shall support the ombudsman board in the performance of its tasks, allow it inspection of its records, and upon request furnish the information required. Official secrecy is inoperative in the case of the ombudsman board.

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

Art. 148c. The ombudsman board can issue to the authorities entrusted with the Federation's highest administrative business recommendations on measures to be taken in or by reason of a particular case. In matters of autonomous administration or of administration by agents not subject to directives the ombudsman board can issue recommendation to the autonomous administrative authority or to the agency not subject to directives; the Federation's highest administrative authority shall likewise have its attention drawn to such recommendations, the authority concerned must within a deadline to be settled by Federal law either conform to the recommendations and inform the ombudsman board accordingly or state in writing why the recommendations have not been complied with.

Art. 148d. The ombudsman board shall annually render the National Council and the Federal Council a report on its activity. The members of the ombudsman board are entitled to participate in the debates by the National Council and the Federal Council and by their committees (sub-committees) on the ombudsman board's reports and on each occasion to be given at their request a hearing. The members of the ombudsman board shall have this right also in respect of the debates by the National Council and its committees (sub-committees) on the draft Federal Finance Act's sections concerning the ombudsman board. Details are stipulated in the Federal law on the National Council's Standing Orders and the Standing Orders of the Federal Council.

Art. 148e. On application by the ombudsman board the Constitutional Court pronounces on the illegality of ordinances by a Federal authority.

Art. 148f. If differences of opinion arise between the ombudsman board and the Federal Government or a Federal Minister on the interpretation of legal provisions. The Constitutional Court on application by the Federal Government or the ombudsman board decides the matter in closed proceedings.

Art. 148g. (1) The ombudsman board has its seat in Vienna and consists of three members one of whom acts in turn as chairman. The term of office lasts six years. Re-election of the ombudsman board's members more than once is inadmissible.

(2) ombudsman board members are elected by the National Council on the basis of a joint recommendation drawn up by the Main Committee in the presence of at least half its members. Each of the three parties with the largest number of votes in the National Council is entitled to nominate one

member for this recommendation. The members of the ombudsman board render an affirmation to the Federal President before their assumption of office.

(3) The ombudsman board 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 ombudsman board's term of office.

(4) Should a ombudsman board member retire prematurely, the party represented in the National Council who nominated this member shall nominate a new member. The new election for the remaining term of office shall be effected pursuant to para. 2 above.

(5) ombudsman board members must be eligible for the National Council; during their service in office they may belong neither to the Federal Government nor to a Land government nor to any popular representative body and they may not practise any other profession.

Art. 148h. (1) ombudsman board officials are appointed by the Federal President on the recommendation and with the countersignature of the ombudsman board chairman. The Federal President can however authorize him to appoint officials in certain categories. Auxiliary personnel is appointed by the chairman who is to this extent the highest administrative authority and exercises these powers in his own right.

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

(3) The ombudsman board 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 ombudsman board's members.

Art. 148i. (1) The Laender can by Land constitutional law declare the ombudsman board competent also in the sphere of the particular Land's administration. In such case Arts. 148e and 148f shall apply analogously.

(2) If Laender create agencies in the sphere of Land administration with tasks similar to the ombudsman board, Land constitutional law can prescribe a provision corresponding to Arts. 148e and 148f above.

Art. 148j. Detailed provisions relating to the implementation of this chapter shall be made by Federal law.

Chapter VIII
Final Provisions

Art. 149. (1) In addition to the present law, the following laws, with the modifications necessitated by this law, shall within the meaning of Art. 44 para. 1 be regarded as constitutional law:

Basic Law of 21 December 1867, RGBl. No. 142, on the general rights of nationals in the kingdoms and Laender represented in the Council of the Realm;

Law of 27 October 1862, RGBl. No. 88, on protection of the rights of the home;

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

Law of 3 April 1919, StGBl. No. 209, respecting the banishment and expropriation of the House of Hapsburg-Lorraine;

Law of 3 April 1919. StGBl. No. 211, on the abolition of the nobility, the secular orders of chivalry, male and female, and of certain titles and dignities;

Section V of Part III of the Treaty of Saint-Germain of 10 September 1919, StGBl. No. 303 of 1920.

(2) Art. 20 of the Basic Law of 21 December 1867, RGBl. No. 142, as well as the Law of 5 May 1869, RGBl. 66, issued on the basis of the said Article are repealed.

Art. 150. The transition to the Federal Constitution introduced by this law will be prescribed in a special law entering into force simultaneously with the present law.

(2) Laws in accordance with a new formulation of federal constitutional law provisions may be issued as from the promulgation of the constitutional law rendering the change effective. They may not however enter into force prior to the entry into force of the new federal constitutional legal provisions in so far as they do not solely stipulate measures requisite for their incipient implementation upon the entry into force of the new federal constitutional law provisions.

Art. 151. (1) Art. 78d and Art. 118 para. 8, as formulated in the Federal constitutional law published in BGBl. No. 565 of 1991, enter into force on 1 January 1992. The existence of constabularies existent on 1 January 1992 remains unaffected; this provision enters into force on 1 January 1992.

(2) Art. 10 para. 1 sub-para. 7, Art. 52a, Arts. 78a to 78c, Art. 102 para. 2 as well as the designation changes in Chapter III and in Art. 102, as formulated in the Federal constitutional law published in BGBl. No. 565 of 1991, enter into force on 1 May 1993.

(3) Art. 102 para. 5 second sentence as well as paras. 6 and 7 are repealed as of midnight 30 April 1993. The words ", excluding the local public administration," in Art. 102 para. 2 are repealed as of midnight 30 April 1993.

(4) Art. 26, Art. 41 para. 2, Art. 49b para. 3, Art. 56 paras. 2 to 4, Art. 95 paras. 1 to 3, Art. 96 para. 3, and moreover the new designation of para. 1 in Art. 56, as formulated in the Federal constitutional law published in BGBl. No. 470 of 1992, enter into force on 1 May 1993.

(5) Art. 54, as formulated in the Federal constitutional law published in BGBl. No. 868 of 1992, enters into force on 1 January 1993.

(6) The following provisions, as formulated in the Federal constitutional law published in BGBl. No. 508 of 1993, enter into force as follows:

1. Art. 10 para. 1 sub-para. 9, Art. 11 para. 1 sub-para. 7 as well as Art. 11 paras. 6, 7, 8 and 9 on 1 July 1994;
2. Art. 28 para. 5, Art. 52 para. 2, the designation of the former Art. 52 paras. 2 and 3 as paras. 3 and 4, as well as Art 52b on 1 October 1993;
3. (deleted)

(7) Art 142 para 2 subparas h and i as amended by Federal Act, Federal Law Gazette I No 100/2003 becomes effective on 1st January 2005, at the same time Art. 11 para 7 as amended by the Federal Constitution Act, Federal Law Gazette No. 508/1993 and of the Federal Act, Federal Law Gazette No. 100/2003 and Art. 11 para 8, as amended by Federal Acts, Federal Law Gazette I No. 114/2000 and Federal Law Gazette I No 100/2003 become ineffective. The independent Environment Panel remains in charge of any proceedings pending on that date until they will be terminated.

(7a) Art. 102 para. 2, as formulated in the Federal constitutional law published in BGBl I No.2 of 1997, enters into force on 1 January 1994. Art. 102 para. 2, as formulated in the Federal law published in BGBl.No.532 of 1993, is abrogated simultaneously.

(8) Art. 54 as formulated in the Federal constitutional law published in BGBl. No. 268 of 1994 enters into force on 1 April 1994.

(9) Art. 6 paras. 2 and 3, Art. 26 para. 2, Art. 41 para. 2, Art. 49b para. 3 and Art. 117 para. 2 first sentence as formulated in the Federal constitutional law published in BGBl. No. 504 of 1994 enter into force on 1 January 1995. In the Federal and Laender legal regulations the term "domicile" is replaced by the termin "principal residence" as of 1 January 1996 unless the term "domicile" is replaced by the term "principal residence" until midnight 31 December 1995. The term "domicile" must not be used any more in Federal and Laender legal regulations as of 1 January 1996; for as long as Land law does not stipulate that Diet or municipal council suffrage depends on the principal residence or the residence it depends on the domicile. As regards the division of the number of deputies among the constituencies (electoral bodies) and as regards regional constituencies (Art. 26 para. 2) and the representation of the Laender in the Federal Council (Art. 34) the domicile as established by the last general census holds good as principal residence up to the time when the results of the next general census will be at hand.

(10) Art. 87 para. 3 and Art. 88a as formulated in the Federal constitutional law published in BGBl. No. 506 of 1994 enter into force on 1 July 1994.

(11) The following holds good for the entry into force of provisions newly formulated or inserted by the Federal Constitutional law published in BGBl. No. 1013 of 1994, the abrogation of provisions revoked by this same Federal constitutional law as well as the transition to the new legal status:

1. the title of this law, Art. 21 paras. 6 and 7, Art. 56 paras. 2 and 4, Art. 122 paras. 3 to 5, Art. 123 para. 2, Art. 123a para. 1, Art. 124, Art. 147 para. 2 second sentence as well as Art. 150 para. 2 enter into force on 1 January 1995.
2. The heading of Chapter I, the heading of Section A in Chapter I Art. 10 para. 1 sub-para 18, Art. 16 para. 4, Section B of Chapter I, Art. 30 para. 3, Art. 59, Art. 73 para. 2, Art. 117 para. 2, Art. 141 paras. 1 and 2, Art. 142 para. 2 sub-para. c and designations of the henceforth sub-paras. d bis i as well as Art. 142 paras. 3 to 5 enter into force simultaneously with the Treaty on the Accession of the Republic of Austria to the European Union.
3. Art. 10 paras. 4 to 6 and Art. 16 para. 6 as formulated in the Federal constitutional law published in BGBl. No. 276 of 1992 are abrogated simultaneously with the entry into force of the provisions specified in sub-para. 2 above.
4. Art. 122 para. 1 and Art. 127b enter into force on 1 January 1997. They apply to acts of administration of public funds subsequent 31 December 1994.
5. For as long as the representatives of Austria in the European Parliament have not been elected in a general election, they shall be delegated by the National Council from among the members of the Federal Assembly. This delegation ensues on the basis of proposals by the parties represented in the in accordance with their shength pursuant to the principle of proportional representation. For period of their delegation members of the National Council and of the Federal Council cansimultaneously be members of the European Parliament. If a member of the National Council delegated to the European Parliament relinquishes his seat as a member of the National Council, Art. 56 paras. 2 and 3 apply. Art. 23b paras. 1 and 2 hold good analogously as well.
6. Sub-para. 5 enters into force on 22 December 1994.

(11a) Art. 112 as formulated in the Federal constitutional law published in BGBl No. 1013 of 1994 and Art. 103 para. 3 and Art. 151 para. 6 sub-para. 3 as formulated in the Federal constitutional law published in BGBl. I No. 8 of 1999 enter into force on 1 January 1995.

(12) Art. 59a, Art. 59b and Art. 95 para. 4, as formulated in the Federal constitutional law published in BGBl. No. 392/1996, enter into force on 1 August 1996. Until Land legal regulations are passed pursuant to Art. 59a and Art. 95 para. 4, the appropriate Federal legal regulations shall analogously apply in the Laender concerned unless the Laender have already passed regulations within the meaning of Art. 59a and Art. 95 para. 4.

(13) Art. 23e para. 6 and Art. 28 para. 5, as formulated in the Federal constitutional law published in BGBl. No. 437/1996, enter into force on 15 September 1996.

(14) Art. 49 and Art. 49a paras 1 and 3, as formulated in the Federal constitutional law published in BGBl. No. 659/1996, enter into force on 1 January 1997.

(15) Art. 55, as formulated in the Federal constitutional law published in BGBl. I No. 2/1997, enters into force on January 1 1997. Art. 54 is repealed simultaneously.

(16) Art. 147 para. 2, as formulated in the Federal constitutional law published in BGBl. I No. 64/1997, enters into force on 1 August 1997.

(17) Art. 69 paras 2 and 3, Art. 73 para. 1, Art. 73 para. 3 and Art. 148d, as formulated in the Federal constitutional law published in BGBl. I 87/1997, enter into force on 1 September 1997. Art. 129, Section B of Chapter VI, Art. 131 para. 3 and the new designations of the sections in Chapter VI enter into force on 1 January 1998.

(18) Art. 9a para. 4, as formulated in the Federal law published in BGBl. I No. 30/1998, enters into force on 1 January 1998.

(19) Article 23f enters into force simultaneously with the Treaty of Amsterdam. The Federal Chancellor shall announce this date in the Federal Law Gazette.

(20) In Art. 149 para. 1, the following parts are repealed:

1. the reference to the constitutional law of 30 November 1945, BGBl. No.6 of 1946, respecting the law on protection of personal liberty of 27 October 1862, RGBl. No. 87, in the proceedings before the People's Court as of midnight 30 December 1955;
2. the words "Law of 8 May 1919, StGBl.No. 257, on the coat of arms and seal of state of the Republic of German-Austria, with the modifications effected by Arts. 2, 5 and 6 of the law of 21 October 1919, StGBl. No. 484;" as of midnight 31 July 1981.

(21) The words "or through the exercise of direct administrative power and compulsion" in Art. 144 para. 3 are repealed as of midnight 31 December 1990.

(22) The Arts. 10 para. 1 sub-para. 14, 15 paras 3 and 4, 18 para. 5, 21, 37 para. 2, 51b para. 6, 52 b para. 1, 60 para. 2, 78d para. 2, 102 para. 1, the new designation of Art. 102 para. 6 and the Arts. 118 para. 8, 118a and 125 para. 3 as formulated in the Federal constitutional law published in BGBl. I No. 8 of 1999 enter into force on 1 January 1999. Art. 102 para. 5 is repealed as of midnight 31 December 1998.

(23) The Arts. 30 para. 3 first sentence, 127c, 129c para. 4, 147 para. 2 fourth and fifth sentence, and 147 para. 6 first sentence as formulated in the Federal constitutional law published in BGBl. I No. 148 of 1999 enter into force on 1 August 1999.

(24) Art. 8, as formulated in the Federal constitutional law published in BGBl. I No. 68 of 2000, enters into force on 1 August 2000.

(25) Art 11 para 8, as amended by the Federal Constitution Act, Federal Law Gazette I No 114/2000 becomes effective as of 1st December 2000. Art 151 para 6 subpara 3 becomes ineffective upon expiry of 24th November 2000.

(26) The following provisions become effective as amended by the Federal Constitution Act, Federal Law Gazette I No 121/2001:

1. Art. 18 para 3 and Art 23e para 5 as of 1st January 1997;
2. Art. 21 para 1 and para 6 as of 1st January 1999;
3. Art. 147 para 2 first clause as of 1st August 1999;
4. Art. 18 para 4, Art. 23b para 2, Art. 39 para 2 and Art. 91 para 2 as of 1st January 2002;
5. Art. 23f paras 1 through 3 at the same time as the Treaty of Nice. The Federal Chancellor shall notify this date in the Federal Law Gazette I.

(27) Art. 14b, Art. 102 para 2 and Art. 131 para 3, as amended by Federal Act, Federal Law Gazette I No 99/2002 become effective as of 1st January 2003. § 2, § 4 para 1, § 5 and § 6 paras 1 and 2 of the transitional act, Federal Law Gazette No. 368/1925, shall apply accordingly. A Laender act having become Federal act as of 1st January 2003 according to the second clause becomes effective as of becoming effective of a Laender Law being adopted on basis of Art 14b para 3, however at the latest as of expiry of 30th June 2003; at the same time the respective provisions of the Federal Procurement Act 2002, Federal Law Gazette I No 99/2002.

(28) Art 23a paras 1 and 3, Art.26 paras 1 and 4, Art. 41 para 2, Art 46 para 2, Art. 49b para 3 and Art. 60 para 3 first clause, as amended by Federal act, Federal Law Gazette I No. 90/2003 become effective as of 1st January 2004.

(29) Art. 11 para. 8 as amended by Federal acts, Federal Law Gazette I No 114/2000 and Federal Law Gazette. I No. 100/2003 becomes effective as of 1st December 2000, Art. 151 para. 7 as amended by Federal Act, Federal Law Gazette I No. 100/2003 as of expiry of the day of the promulgation of the subject Federal act. Art. 7 para. 1, Art. 8, Art. 8a, Art. 9a, Art. 10 para. 1 subpara 10, Art. 13 para. 1, Art. 14 para. 1, para. 5 subpara. a und para. 8, Art. 14a, Art. 15 para. 4, Art. 18 para. 4 and 5, Art. 23 paras. 1 and 5, Art. 23e para. 6, Art. 26, Art. 30 para. 2, Art. 34 para. 2, Art. 35 para. 1, Art. 42 para. 4, Art. 47 para. 1, Art. 48, Art. 49, Art. 49a, Art. 51, Art. 51a, Art. 51b, Art. 51c, Art. 52b, Art. 57, Art. 71, Art. 73, Art. 81a para. 1, 4 und 5, Art. 87a, Art. 88a, Art. 89, Art. 97 para. 1 und 4, Art. 102 para. 2, Art. 112, Art. 115, Art. 116, Art. 116a, Art. 117, Art. 118, Art. 118a, Art. 119, Art. 119a, Art. 126a, Art. 126b para. 2, Art. 127 para. 3, Art. 127a, Art. 127c, Art. 134 para. 3, Art. 135, Art. 136, Art. 137, Art. 139, Art. 139a, Art. 140, Art. 140a, Art. 144, Art. 146 para. 1, Art. 147 para. 3, Art. 148, Art. 148a, Art. 148b, Art. 148e through Art. 148j and Art. 149 as well as the headings and the other provisions as amended by Federal Act, Federal Law Gazette I No 100/2003 become effective as of 1st January 2004.

Art. 152. The execution of this law is entrusted to the Federal Government.