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# RULES OF PROCEDURE LAW AUSTRIAN NATIONAL COUNCIL



As amended on 12 February 2010

## ANNEX: INVESTIGATING COMMITTEES VIENNA 2010

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The National Council chamber

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Austrian National Council  
**Rules of Procedure Law**  
(National Council)

Annex:  
Rules of Procedure for Parliamentary Investigating  
Committees

As of 12 February 2010

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# **Rules of Procedure for Parliamentary Investigating Committees**

## **Annex to the Federal Law on the Rules of Procedure of the Austrian National Council of 1975**

### **Promulgation:**

BGBI. [Federal Law Gazette] I No 131/1997

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# **Federal Law on the Rules of Procedure of the National Council**

**(Rules of Procedure Law of 1975)**

**(Nationalrat)**

**As amended on 12 February, 2010**

## **Promulgations:**

BGBI. [Federal Law Gazette] No. 410/1975  
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Note: The last three amendments (BGBI. I Nos 31/2009, 11/2010 and 12/2010) are marked by footnotes.



# **Federal Law on the Rules of Procedure of the National Council**

## **(Rules of Procedure Law of 1975)**

### **(National Council)**

#### **I. Opening and Constitution of the National Council**

**§ 1.** (1) The Federal Election Board shall issue to each Member of the National Council after his/her election, or after his/her appointment as a substitute member, a Letter of Credence which shall be deposited with the Parliamentary Administration.

(2) The Parliamentary Administration shall issue an official pass bearing his/her photograph to each Member whose letter of credence has been deposited.

**§ 2.** (1) A Member of the National Council shall lose his/her seat

1. if s/he fails to take the official oath, or fails to take the oath in the form required in § 4 below, or makes reservations or imposes conditions under which s/he is willing to take the oath;
2. if s/he delays taking his/her seat for 30 days or remains absent from the sittings of the National Council for 30 days without valid reason (§ 11 (4)) recognised as such by the National Council and has failed to obey the President's order addressed to him/her publicly and before the National Council to appear or justify his/her absence within a further period of 30 days;
3. if s/he ceases to be eligible after having been elected;
4. under the circumstances defined in §§ 9 and 10 of the Incompatibility Law of 1983, BGBl. No. 330.

(2) The President shall, when notified of one of the cases defined in (1) 1.-3. above, so inform the National Council, which shall decide by a simple majority on a motion provided for in Article 141 (1) of the Federal Constitutional Law (B-VG), which decision shall be prepared by the Main Committee.

(3) If the National Council takes a decision under (2) above, the President shall make an application to the Federal Constitutional Court on behalf of the National Council.

(4) In cases under (1) 4. above, the procedure shall be as provided for in § 10 of the Incompatibility Law of 1983, BGBl. No. 330.

(5) After receipt of the decision of the Constitutional Court by which the member in question is declared to have lost his/her seat, the President of the National Council shall so inform the person so deprived of his/her seat. The loss of seat shall enter into force on the day following the receipt by the President of the National Council of the decision of the Constitutional Court by which the seat is declared lost. The President shall inform Members of the court decision at the next sitting of the National Council.

(6) The provisions of (5) shall apply *mutatis mutandis* to cases in which the Constitutional Court has granted an application contesting an election result on grounds of an ineligible person having been declared elected or an eligible person having been unlawfully declared ineligible.

(7) In cases under Art. 141 (2) B-VG the Members concerned shall only lose their seats at the time the letters of credence of the Members elected in the repeated election are deposited with the Parliamentary Administration.

(8) If a Member resigns his/her seat, said resignation shall take effect at the time of receipt by the President of the National Council of the Federal Election Board's notification to that effect, unless the resigning member has stipulated a later effective date.

**§ 3.** (1) The newly elected National Council shall be convened by the Federal President within 30 days of its election.

(2) The sitting shall be opened by the President of the former National Council, who shall chair the sitting until the new President has been elected.

(3) The chairperson shall appoint four Members to act temporarily as Secretaries.

**§ 4.** (1) The chairperson shall make a roll-call of Members, who shall take their oath of office by pronouncing the words "Ich gelobe" ("I promise"), swearing to faithfully uphold the Republic, to faithfully respect the Constitutional Laws and all other enactments at all times, and to perform his/her duties conscientiously.

(2) Members taking their seats at a later date shall take their oaths on taking their seats.

**§ 5.** (1) All Members having taken their oaths, the National Council shall elect from amongst its Members the President as well as the Second and Third Presidents.

(2) Following the election of the Presidents, five Secretaries and at least three Whip shall be elected.

(3) All officers elected shall serve for the entire term of office of the National Council.

**§ 6.** (1) The Presidents and the Main Committee, or if the National Council has been dissolved under Art. 29 (1) B-VG, the Permanent Sub-Committee of the Main Committee instead of the latter, shall remain in office until the newly elected National Council has elected the new Presidents and Main Committee.

(2) If the elected Presidents are prevented from the exercise of their functions or if their term of office has expired, the sitting shall be chaired by the oldest Member present at the venue of the National Council, on condition that said Member is not prevented from exercising his/her functions and is a member of a party which was represented among the Presidents of the National Council at the time when the elected Presidents were prevented or their terms of office expired; said Member shall forthwith convene the National Council and, after opening the sitting, proceed to the election of three chairpersons who shall assume the functions of the prevented Presidents or, in case the term of office of the Presidents has expired, the election of the President.

(3) If said Member fails to perform this duty within eight days of the time when the Presidents were prevented or their term of office lapsed, the afore-mentioned rights shall pass on to the next senior Member who satisfies the conditions mentioned above.

(4) The Presidents so elected shall remain in office until at least one of the Presidents prevented from exercising his/her functions is capable of resuming office.

**§ 7.** Members who belong to the same political party that participated in the election may form a Parliamentary Group. The minimum number of members required for recognition shall be five. Members who do not belong to the same political party can form a Parliamentary Group only with the approval of the National Council. The President shall without delay be informed of the formation of a Parliamentary Group or changes in its membership.

**§ 8.** (1) The Presidents and Parliamentary Group chairpersons shall form the President's Conference. The Parliamentary Group chairpersons may delegate other members to the President's Conference.

(2) The President's Conference shall act as a deliberative organ. Its duties shall above all include the presentation of proposals for the execution of programmes of work, the determination of the agendas and times of National Council sittings, the referral of items of business to the committees, the coordination of committee meetings and for the cultivation of international parliamentary relations.

(3) Matters which shall under any circumstances be subject to preliminary deliberation by the President's Conference are the internal rules for the Parliament Building (§ 14 (1)), the use of the Shapley procedure (§ 32 (2)), the dispositions of the President regarding the list of Members (§ 14 (7)), the number of requests (§ 28b (4)), the restriction of speaking time (§ 57 (2) 2 and (3)), the order in which Members shall be given the floor (§ 60 (8)), the time of debate (§ 81 (2)) and the omission of Question Time (§ 94 (4))<sup>1</sup>.

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<sup>1</sup> As amended in BGBI. I No. 31/2009

## II. General Rights and Duties of Members

**§ 9.** Every Member whose letter of credence has been deposited with the Parliamentary Administration shall have a seat and a vote in the National Council for the duration of its term as long as his/her membership does not expire for one of the reasons listed in § 2 above.

**§ 10.** (1) Members shall under no circumstances be held responsible for any votes cast in the exercise of their functions; they shall be exclusively responsible to the National Council for any statement, whether oral or in writing, made in the exercise of their functions.

(2) Unless apprehended flagrante delicto in the performance of a felony, Members shall only be arrested with the approval of the National Council. Likewise, they shall be immune from searches unless approved by the National Council.

(3) Otherwise, Members shall, without approval of the National Council, only be prosecuted for punishable offences which are obviously in no way connected with their political activities. However, the prosecuting authority shall, upon demand of the Member concerned or of one third of the members of the Standing Committee having jurisdiction over such matters, seek a decision of the National Council on whether or not any such connection exists. Once such a demand has been made, the prosecuting authority shall immediately cease to take action or stop any action already undertaken. If the National Council determines that there is a connection between the alleged offence and the Member's political activity, it shall at the same time decide on whether or not it approves the prosecution of the Member in question.

(4) The National Council shall in all such cases be deemed to have given its approval if it fails to decide within eight weeks on a request for a decision made by the competent prosecuting authority.

(5) If a Member is apprehended flagrante delicto in the performance of a felony, the authority in question shall without delay notify the President of the National Council of the arrest of the Member. On demand of the National Council or, between parliamentary sessions, of the Standing Committee having jurisdiction over such matters, the authority shall release the arrested Member or altogether refrain from prosecuting him/her.

(6) The immunity of Members shall terminate on the day the newly elected National Council meets for its first sitting or, in the case of organs of the National Council whose function extends beyond that day, when that function expires.

**§ 11.** (1) It shall be incumbent upon every Member to attend the sittings of the National Council and of the committees to which s/he has been appointed.

(2) If a Member is unable to attend one or several successive sittings of the National Council, s/he or the Parliamentary Group to which s/he belongs shall inform the Parliamentary Administration of his/her absence prior to the beginning of the sitting or the first of several successive sittings.

(3) The President shall inform the National Council of any apologies at the beginning of each sitting.

(4) If a Member is unable to attend for 30 days or more, s/he shall so inform the President in writing, stating the reasons for his/her absence. If the Member's absence is for any reason other than illness, the President shall inform the National Council of the reason. If the validity of the reason is challenged, the National Council shall decide without debate whether the Member be required to resume without further delay his/her attendance at the sittings of the National Council.

**§ 12.** If a female Member of the National Council is elected to an office in accordance with the provision of this Law, the office in question shall be referred to by its gender-specific designation.

### III. Duties of the Presidents, Secretaries and Whips

**§ 13.** (1) The President shall safeguard the decorum and rights of the National Council and the accomplishment of the tasks incumbent on it and ensure that its deliberations can take place without any undue delay.

(2) S/he shall implement the Rules of Procedure, ensure their respect and maintain order in the Chamber.

(3) The President shall open and close the sittings and chair them, preside over the proceedings recognise speakers, put questions to the vote and announce the results of voting. S/he may at any time, and especially in case of any disturbance or interference, suspend the sitting for a definite or indefinite period. S/he shall see to it that persons who disturb the peace, or in extreme cases, all those attending on the galleries, are removed from the galleries.

(4) The President shall refer the agenda items enumerated in § 21 (1) to the Committees. S/he shall also inform the National Council of the decisions of the Incompatibility Committee and of the measures s/he has taken on their basis.

(5) The President shall also have the duty to establish, in consultation with the members of the President's Conference, a programme of work for the sittings of the National Council, which programme should, if possible, be established for twelve months in advance. As a rule, the first and second weeks of each four-week period shall be assigned to committee sittings, the third for plenary sittings, while there shall be no sittings during the fourth week, which shall be reserved to Members' work in their constituencies. As a rule, Plenary sittings shall take place on two or three days of each week reserved for plenary sittings, at least one sitting taking place on each of these days. These provisions shall in no way prejudice the provisions of § 46 below.

(6) The President shall have the right to receive and refer all documents presented to the National Council. S/he shall represent the National Council and its Committees vis-à-vis third parties and in particular cultivate international parliamentary relations.

(7) Any documents issuing from the National Council shall be signed by the President and one Secretary.

**§ 14.** (1) The President shall have authority over the Parliament Buildings and determine the internal rules of the house after deliberation in the President's Conference.

(2) S/he shall, in conjunction with the Second and Third Presidents, establish the Budget of the National Council and shall transmit said Budget with all annexes and explanatory remarks to the Federal Minister of Finance. The President shall have the right of disposition of the funds earmarked for the National Council in the Draft Federal Budget.

(3) The President of the National Council shall, in particular, have the right to appoint the staff of the Parliamentary Administration and have full authority in all matters relating to the rights and duties of said staff.

(4) Members of the Parliamentary Administration staff shall be held equal to other Federal civil servants in regard to their position, rights and duties.

(5) In carrying out his/her administrative duties under Art. 30 B-VG, the President of the National Council shall be the supreme administrative organ and the only one to exercise these functions. The President of the National Council shall be empowered to issue decrees to the extent that these decrees concern exclusively administrative matters enumerated in Art. 30 B-VG.

(6) The President shall make provision for the services of parliamentary stenographers and for any other (sound and video) recordings of proceedings.

(7) At the beginning of each term of the National Council and during the same in case of major changes, the President shall provide for the publication of a list of members by the Parliamentary Administration. The list shall contain the following information in addition to the name of each Member: the constituency (constituency association) from which the Member has been elected, his/her Parliamentary Group, and his/her domicile or postal address. The

President may, in conjunction with the President's Conference, decide what other information be contained in the membership list.

(8) Other publications may be made at the discretion of the President, who may, however, seek a decision of the National Council on the question of said publication.

**§ 15.** If the President is unable to discharge his/her duties, the same shall be discharged by the Second or Third President. The President may ask the Second or Third President to chair sittings of the National Council (§ 13) in his/her stead.

**§ 16.** The Secretaries shall assist the President in discharging his/her duties, and in particular in reading documents etc. in the National Council and in determining voting results.

**§ 17.** The Whips shall assist the President in chairing the sittings and in maintaining order in the Chamber.

#### **IV. General Rights and Duties of the Members of the Federal Government, the President of the Court of Audit and the Members of the Ombudsman's Office**

**§ 18.** (1) The members of the Federal Government and the State Secretaries shall have the right to participate in all the proceedings of the National Council, its Committees and the latters' Sub-Committees - except for the deliberations of the Standing Sub-Committee of the Main Committee and of the Investigating committees.

(2) The persons enumerated in (1) above may have themselves accompanied by experts from their respective spheres of responsibility when participating in proceedings of the National Council, its Committees and the latters' Sub-Committees - except for the deliberations of the Standing Sub-Committee of the Main Committee and of the Investigating committees - unless a decision to the contrary is taken in respect of individual sittings or parts thereof.

(3) The National Council, its Committees and the latters' Sub-Committees may require the presence of members of the Federal Government at their deliberations.

**§ 19.** (1) In the debates of the National Council, its Committees and the latters' Sub-Committees - except for the deliberations of the Standing Sub-Committee of the Main Committee and of the Investigating committees - the members of the Federal Government and the State Secretaries may take the floor repeatedly on matters under discussion, but they must not interrupt speakers holding the floor. State Secretaries shall have this right in the absence of the Government Members to whom they are attached or, in their presence, with the approval of the latter.

(2) In the sittings of the National Council the members of the Federal Government shall have the right to make oral statements on matters not currently under discussion, in which case the member of the Federal Government shall, if possible, notify his/her intention to the President before the beginning of the sitting. The President shall so inform the National Council and determine at what point in time during the sitting the government member shall make his/her statement. If objections are raised to this decision of the President, the National Council shall decide on the time of delivery of the statement without debate.

**§ 20.** (1) The President of the Court of Audit shall have the right to participate in the proceedings of the National Council, its Committees and the latters' Sub-Committees on the reports of the Court of Audit, the Federal Financial Accounts, motions under § 99 (1) concerning the performance of special investigations into the administration of public funds and those chapters of the Draft Federal Budget which concern the Court of Audit.

(2) The President of the Court of Audit shall furthermore have the right to be accompanied by staff members of the Court of Audit at the sittings of the National Council, its Committees and the latters' Sub-Committees which he attends, unless a decision to the contrary is taken in respect of individual sittings or parts thereof.

(3) The President of the Court of Audit shall have the right to take the floor at the sittings of the National Council, its Committees and the latters' Sub-Committees repeatedly on matters enumerated in (1) above, but may not in so doing interrupt speakers holding the floor.

(4) The National Council, its Committees and the latters' Sub-Committees may require the presence of the President of the Court of Audit at their deliberations.

(5) With regard to the members of the Ombudsman's Office, paragraph (4) above and, in the case of deliberations on the reports of the Ombudsman's Office and on the chapters of the Draft Federal Budget concerning the Ombudsman's Office, paragraphs (1-3) shall apply mutatis mutandis.

**§ 20a.**<sup>2</sup> (1) The Chairpersons of the Parliamentary Federal Army Commission shall have the right to participate in the deliberations on the report acc. to § 4 (5) Wehrgesetz (Defence Act) 2001 in the competent National Council Committee.

(2) The Chairpersons of the Parliamentary Federal Army Commission may take the floor, also repeatedly, but without interrupting a speaker holding the floor, in the debates under para 1 above.

(3) The competent committee may require the presence of the Chairpersons of the Parliamentary Federal Army Commission at debates under para 1 above.

**§ 20b.**<sup>3</sup> The competent National Council Committees shall have the right to require the presence of the head of an independent body under Art. 20, para 2 B-VG in the Committee sittings and to query him/her on all matters of management.

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<sup>2</sup> As amended in BGBl. I No. 11/2010

<sup>3</sup> As amended in BGBl. I No. 11/2010

## V. Items of Business

**§ 21.** (1) The following submissions in writing shall be items of business for the National Council and for preliminary deliberation by its Committees:

- private Members' motions;
- Federal Government bills and other items of business submitted by the Federal Government
- Reports and motions of the Main Committee under § 31d (5);
- Federal Council bills;
- Popular initiatives;
- objections by the Federal Council;
- stenographic records of parliamentary hearings;
- joint reports of Members delegated by the National Council, or the National Council in conjunction with the Federal Council, to international parliamentary organisations and of Members of the National and Federal Councils participating in meetings of the Interparliamentary Union;
- reports of the Federal Government and its members under § 28b (4);
- reports of the Court of Audit and Federal Financial Accounts;
- reports of the Ombudsman's Office;
- requests for the approval of the public prosecution of Members under § 10 (2 and 3), requests for a decision on possible connections with the political activities of Members as outlined in § 10 (3), and notifications on the part of authorities under § 10 (5);
- requests of authorities under Art. 63 (2) B-VG;
- requests for the authority to prosecute persons for insulting the National Council;
- petitions and citizens' initiatives.

(1a) Petitions, citizens' initiatives, court of audit reports, annual federal accounts and ombudsman's reports which were introduced for deliberation in the National Council and not disposed of in the previous legislative period shall be deliberated upon by the next elected National Council and preliminary deliberated on by its committees.<sup>4</sup>

(2) Other items of business of the National Council shall be the following submissions of Committees:

- committee motions;
- reports of investigating committees;
- reports of the Standing Sub-Committee of the Court of Audit Committee (§ 32e (4));
- reports of the Main Committee in accordance with special legal provisions;

(3) Other items of business to be dealt with by the National Council shall be the reports of commissions of enquiry; questions and answers thereto; statements by members of the Federal Government; information about the appointment of members of the Federal Government (Art. 70 B-VG) and State Secretaries (Art. 78 (2) B-VG); consideration of EU matters under § 74b (1); elections.

(4) Items of business to be dealt with by the committees shall be the reports of the Federal Government and its members under § 28b (1 to 3).

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<sup>4</sup> As amended in BGBl. I No. 31/2009

**§ 22.** The items of business enumerated in § 21 above, other than petitions and citizens' initiatives, shall be held to be part of the deliberations in public sittings of the National Council (Art. 33 B-VG). The same shall apply to the reports of Committees, minority reports under § 42 (4) and individual dissenting opinions under § 42 (5).

**§ 23.** (1) Upon receipt of Federal Government Bills and other items of business submitted by the Federal Government, Federal Council bills, popular initiatives, objections by the Federal Council, stenographic records of parliamentary hearings, reports of commissions of enquiry, reports of the Federal Government and its members, reports of the Court of Audit or Federal Financial Accounts, reports of the Ombudsman's Office as well as written questions and answers thereto, the President shall direct these submissions to be copied and distributed to the Members. The copying and distribution of reports of Members delegated by the National Council, or the National Council jointly with the Federal Council, to international parliamentary organisations as well as of Members of the National and Federal Councils participating in meetings of the Interparliamentary Union shall be directed by the President after consultation with the members of the President's Conference at a time deemed appropriate.

(2) The President may, after consultation of the members of the President's Conference, exceptionally dispense with the copying of items of business or parts thereof, if such action appears necessary in the interest of economy and administrative expediency. In all such cases, the President shall, however, hold the entire document at the disposal of Members in the Parliamentary Administration.

(3) Requests for approval of the public prosecution of Members under § 10 (2) and (3, first sentence), requests for a decision on a possible connection with the political activities of a Member as outlined in § 10 (3), and information by authorities under § 10 (5), requests of authorities under Art. 63 (2) B-VG, requests for the authority to prosecute persons for insulting the National Council as well as information about the appointment of members of the Federal Government and of State Secretaries shall not be copied and distributed. The copying and distribution of bills, documents, reports, items of information, and announcements to be submitted to the National Council under Art. 23c, 23e and 23f B-VG shall be governed by the provisions of § 31b, the copying and distribution of petitions and citizens' initiatives by the provisions of § 100 (5).

(4) Written documents regarding items of business - other than independent motions of Committees and the reports of investigating committees and the Main Committee - shall be communicated to the National Council during the sittings and referred to the appropriate committee. Such information may be given by referring to a document distributed in the meeting hall. The information about the receipt of documents regarding items of business (§ 49 (1) or (2)) shall be given, in the case of documents to be distributed under (1) above and/or § 26 (6), at the sitting following their distribution, and in the case of the documents enumerated in (3) above at the sitting following their receipt.

**§ 24.** (1) In determining the agenda of the National Council, popular initiatives shall be given priority over all other matters.

(2) Preliminary deliberation on a popular initiative shall commence within one month of its referral to the competent committee; under any circumstances, a report shall be submitted to the National Council within a further four months.

**§ 25.** The Federal Government may modify or withdraw its bills and other items of business it has submitted at any time up to the commencement of voting in committee. The same provision shall apply to reports by the Federal Government or its members. After receipt of a note to this effect the President shall have the note copied and distributed to the Members. Any such modification or withdrawal shall, in addition, be communicated to the National Council at its next sitting (§ 49 (1) or (2)).

**§ 26.** (1) Every Member shall have the right to make private Members' motions during the sittings of the National Council.

(2) The motion shall contain the words "Der Nationalrat wolle beschliessen" ("...that the National Council resolve...") and the exact wording of the decision which the National Council is requested to take in accordance with the motion. Motions shall be submitted to the President in writing and shall carry the signature(s) of the sponsor(s). They shall clearly identify the sponsor. All motions shall be accompanied by four copies.

(3) The motion may contain a proposal concerning the committee to which it should be referred for deliberation.

(4) Every motion must be supported by at least five Members (including the mover(s)).

(5) Unless the motion bears the signatures of five Members, such support shall be expressed by the seconding Members rising from their seats when asked by the President whether there are any seconds.

(6) All private Members' motions duly seconded shall without delay be copied and distributed to the Members.

(7) If a Committee fails to commence preliminary deliberations on a private Member's motion within six months of referral, the mover(s) may demand that preliminary deliberations should start within eight weeks of their demand being made.

(8) In addition, the mover(s) of a private Member's motion may demand that the Committee to which said motion has been referred report to the National Council one year after referral of the motion. Such demand shall be submitted within six months of referral and supported by at least five Members (including the mover(s)), with no Member supporting more than two such demands per year.

(9) Demands under (7) and (8) above shall be submitted in writing to the President, who shall notify the National Council and the chairperson of the Committee in question.

(10) Committee reports under (8) above shall be placed on one of the agendas of the next two weeks of sittings.

(11) The mover(s) may withdraw his/her/their private Members' motion at any time before a vote is taken on it in Committee. The President shall order the copying of the letter of withdrawal and its distribution to the Members. In addition, every such withdrawal shall be communicated to the National Council at its next meeting (§ 49 (1) or (2)).

**§ 27.** (1) Every Committee shall have the right to present Committee motions for the adoption of laws germane to the subject matter under deliberation in Committee, and to submit a report to this effect in accordance with § 42.

(2) In preliminarily deliberating a Draft Federal Framework Budget and the Federal Finance Act as well as an objection on the part of the Federal Council motions under (1) above shall not be permitted.<sup>5</sup>

(3) The Committee shall also have the right to present independent motions requesting decisions that do not concern the adoption of laws in accordance with (1) above but are germane to the subject matter under deliberation in Committee. If such motions are motions for a resolution or motions requesting the holding of a referendum under Art. 43 B-VG, they shall be annexed to the Committee report on the subject matter in hand.

**§ 28.** (1) Private Members' motions and Committee motions that would entail financial burdens for the Federal Government in excess of the amounts foreseen in the Draft Federal Budget shall contain proposals on how the excess expenditure is to be covered.

(2) The Committee to which such a motion has been referred for preliminary deliberation shall investigate whether the proposal on covering the excess expenditure is sufficient.

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<sup>5</sup> As amended in BGBl. I No. 11/2010

## Va. Summary Procedure

**§ 28a.** (1) In the case of a bill concerning a State Treaty the President may, after consultation of the members of the President's Conference, propose to the National Council immediately after communicating receipt of said motion according to § 23 (4) that it should not be referred to a Committee but placed on the agenda of one of the next sittings.

(2) If there is an objection to the President's proposal the motion shall be referred to a committee for preliminary deliberation.

**§ 28b.** (1) The President shall refer reports of the Federal Government and its members to a Committee for final deliberation.

(2) Subject to the availability of sufficient room, the general public, and above all, media representatives shall be given access to the debates of and voting on reports of the Federal Government and its members. Audio and video recordings shall be permitted.<sup>6</sup>

(3) A time frame for the debate shall be envisaged at the beginning of the sitting. In the debate no speaker may speak for more than ten minutes.<sup>7</sup>

(4) For good cause the Committee may decide at any time during debate not to enter upon the final deliberation procedure. Preliminary deliberation by the Committee shall also take place at the request of a Parliamentary Group. The President may, after consultation of the President's Conference, decide that such requests may be made by each Parliamentary Group, the minimum entitlement being one request per year and Parliamentary Group. In such cases, preliminary deliberation by the Committee shall be followed by a debate and vote under the General Provisions concerning the Consideration of Business in Sittings of the National Council.<sup>8</sup>

(5) In conjunction with a request under para 4, second sentence, the Parliamentary Group may also require that the report in question be deliberated on by the National Council within the scope of the next two weeks of sittings as defined in § 13 (5).<sup>9</sup>

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6 As amended in BGBl. I No. 31/2009

7 As amended in BGBl. I No. 31/2009

8 As amended in BGBl. I No. 31/2009

9 As amended in BGBl. I No. 31/2009

## VI. Establishment of Committees and Consideration of Business during Their Meetings

**§ 29.** (1) The National Council shall elect the Main Committee from among its Members in accordance with the principles of proportional representation.

(2) The Main Committee shall, in particular, have the following duties:

- (a) to reach agreement with the Federal Government concerning Austria's participation in appointing members of the Commission, the Court of Justice, the Court of First Instance, the Court of Auditors and the Board of Directors of the European Investment Bank under Art. 23c (2) B-VG;
- (b) to comment on projects of the European Union under Art. 23e and Art. 23f B-VG;
- (c) to deliberate preliminarily on a motion to hold a referendum under Art. 49b B-VG;
- (d) to reach agreement with the Federal Government or a Federal Minister concerning such regulations as require such agreement under Federal Law in accordance with Art. 55 B-VG;
- (e) to receive reports of the Federal Government or a Federal Minister to the extent this is required by Federal Law in accordance with Art. 55 B-VG;
- (f) to propose a candidate for the election of the President of the Court of Audit under Art. 122 (4) B-VG;
- (g) to propose candidates for election as members of the Ombudsman's Office under Art. 148g (2) B-VG;
- (h) to propose a list of candidates for election as members of the Parliamentary Federal Army Commission under § 4 (9) Wehrgesetz/Defence Act 2001.<sup>10</sup>

**§ 30.** (1) The number of members of the Main Committee shall be determined by decision of the National Council.

(2) The members of the Main Committee shall be elected from list submitted to the President.

(3) The number of Members on each list who shall become members of the Main Committee shall be proportional to the number of Members that have signed these lists. Each Member must not sign more than one list. The order in which Members' names are given on the slates shall decide, in the first place, on whether or not they have been elected.

(4) The assignment of the number of Members corresponding to each list shall be done by means of a denominator (Wahlzahl), which shall be determined as follows: The numbers of Members having signed the individual lists are written side by side in decreasing order of magnitude; beneath these totals are written one half of the respective number, then one third, one quarter and any further fractions that may be necessary. If the number of seats on the Committee is ten, the denominator shall be the tenth highest number, in the case of eleven committee seats, the eleventh highest, in the case of twelve seats, the twelfth highest number etc. The number of members assigned to each list shall then be the quotient of the number of Members that have signed the respective list divided by the denominator.

(5) Any Committee member unable to exercise his/her function on the Committee shall be replaced by a Member to be designated to the President in writing by those Members who have signed the respective list.

**§ 31.** (1) The Main Committee shall elect a Standing Sub-Committee which shall have the duties laid down in Arts. 18 (3) and 55 (2) B-VG as well as a Standing Sub-Committee which shall, in accordance with the provisions of this Federal Law, have competence to deal with projects concerning the European Union (Standing Sub-Committee on Matters of the European

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<sup>10</sup> As amended in BGBl. I No. 11/2010

Union). Elections shall be governed by the principles laid down in § 30; however, each Sub-Committee shall have among its members at least one member of each of the Parties represented on the Main Committee.

(2) A substitute member shall be elected for each of the members of the Standing Sub-Committees. The members and substitute members of the Standing Sub-Committees shall retain their seats until the Main Committee of the National Council has elected other members and substitute members to sit on the Standing Sub-Committees.

**§ 31a.** The Main Committee shall without delay deal with submissions under § 29 (2) a and d. Once agreement has been reached between the Federal Government (Federal Minister) and the Main Committee, the competent Federal Minister shall publish the new provisions, making due reference to the agreement of the Main Committee.

**§ 31b.** (1) Communications of the Federal Government under the last sentence of Art. 23c (2) and under Art. 23c (5) B-VG shall be distributed to all Members of the National Council.

(2) Bills, documents, reports, items of information and communications regarding projects concerning the European Union under Art. 23e (1) B-VG shall be distributed to the Parliamentary Groups in two copies or their equivalent in electronic-media form. They shall be accessible in the Parliamentary Administration for inspection by the Members of the National Council if the secrecy provisions of the European Union so permit.

(3) If a project concerning the European Union under Arts. 23e and 23f B-VG is placed on the agenda of the Main Committee, the documents relating thereto (Paragraph 2 above) shall be distributed to the members of the Main Committee.

(4) Reports of competent Federal Ministers under Art. 23e (4) B-VG shall be distributed to all Members of the National Council.

**§ 31c.** (1) Projects concerning the European Union under Art. 23e and 23f B-VG (§ 29 (2) b above) on which the competent members of the Federal Government have to inform the National Council, and reports by the competent member of the Federal Government under Art. 23e (4) on which an opinion has been presented under Art. 23e (2), as well as all documents regarding projects of the European Union directly communicated to the national parliaments by institutions of the European Union shall be dealt with by the Main Committee.

(2) With the exception of cases listed in § 34 (4), projects concerning the European Union under Art. 23e and 23f B-VG or reports under Art. 23e (4) B-VG shall be placed on the agenda of a Main Committee sitting if

1. the competent member of the Federal Government so requests or
2. one fourth of the members of the National Council so request or
3. a member of the Main Committee so requests 48 hours before a sitting at the latest and if the project is likely to be decided upon at the next meeting of the Council of the European Union; Members of one and the same Parliamentary Group shall be limited to making one such request.

(3) At the beginning or during the course of a sitting, the chairperson may, upon decision of the Main Committee, change the order of the items on the Main Committee's agenda.

(4) Deliberations of the Main Committee on projects concerning the European Union shall be confidential if the provisions of the European Union concerning confidentiality of such projects and/or documents relating thereto so require.

(5) The provisions of (4) above notwithstanding, deliberations of the Main Committee on projects concerning the European Union shall be open to the public under § 47 (1). Audio and video recordings as well as the taking of photographs shall be permitted. For good cause, a Member may move that the public be excluded from all or part of the deliberations.<sup>11</sup>

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11 As amended in BGBl. I No. 12/2010

(6) Summary records of the deliberations of the Main Committee on matters concerning the European Union shall be taken down unless the Committee otherwise decides. Summary records of those parts of the deliberations which are open to the public shall be annexed to the Stenographic Records.

(7) The Members of the European Parliament elected in Austria shall have the right to attend the deliberations of the Main Committee on matters of the European Union in an advisory capacity.

(8) After written notification of the chairperson, a member of the Main Committee may be represented by a Member of his/her Parliamentary Group in deliberations on matters of the European Union.

(9) The speaking time for Members of the National Council and Members of the European Parliament elected in Austria shall be determined by a decision taken at the beginning of the sitting upon proposal of the Chairperson. In taking the decision, consideration shall be given to the strengths of the individual Parliamentary Groups represented on the Committee as well as to the number of Members of the European Parliament elected in Austria including those Members of the European Parliament who do not belong to a Parliamentary Group or any Parliamentary Group represented on the Committee.<sup>12</sup>

**§ 31d.** (1) The Main Committee may

1. make, on one or several occasions, comments under Art. 23e (1) B-VG on projects concerning the European Union,
2. object to any intended departure, under Art. 23e (3) B-VG, on the part of the competent member of the Federal Government, from a position adopted by the National Council if the legal instrument in preparation were to constitute a modification of the Federal Constitutional Act as currently in force,
3. take note, or refuse to take note, of reports of the competent member of the Federal Government on any such departure from a position adopted by the National Council.

(2) Before opening debate on a project concerning the European Union, the Chairperson may give the floor to the competent Federal Minister or a member of the competent department delegated by him/her for an introductory report on the project and the position of the competent Federal Minister thereon.

(3) After the debate has been opened, any member of the Main Committee may table motions in writing proposing decisions under (1) above. Motions for a position to be adopted by the Main Committee shall indicate whether the project in question is to be transformed into domestic law by way of Federal Law or Federal Constitutional Law, or whether it envisages passage of a directly applicable instrument relating to matters that would have to be transformed into domestic law by way of Federal Law or Federal Constitutional Law.

(4) The President of the National Council shall without delay transmit positions and other decisions of the Main Committee on Projects of the European Union to the Federal Chancellor, the Federal Minister for Foreign Affairs and the competent member of the Federal Government. Unless the Main Committee decides otherwise, such positions and decisions shall also be distributed to the President of the Federal Council, all Members of the National Council and the Austrian Members of the European Parliament.

(5) The Main Committee may decide that a project or report on matters of the European Union should be deliberated by the National Council. In this case the Main Committee shall present a report, which may contain motions under (1) above as well as motions under § 27 (1 and 3). Such reports and the motions contained therein shall constitute items of business of the National Council.

(6) The Main Committee may decide in what way the competent member of the Federal Government who wishes to depart under Art. 23 (3) B-VG from a position taken by the National Council can bring the matter before the Main Committee for reconsideration. In so doing, the

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<sup>12</sup> As amended in BGBl. I No. 12/2010

Main Committee may decide to entrust consideration to the Standing Sub-Committee on Matters of the European Union or to consult said Sub-Committee under § 31e (3).

**§ 31e.** (1) The Main Committee may entrust duties regarding matters of the European Union under Arts. 23e and 23f B-VG to the Standing Sub-Committee on Matters of the European Union. The Main Committee may also decide in individual cases to reassume such duties so entrusted.

(2) In accomplishing duties so entrusted to it, the Standing Sub-Committee on Matters of the European Union shall be governed by the provisions relating to the Main Committee other than § 31d (5).

(3) If no reconsideration by the National Council under Art. 23e (3) B-VG is called for, duties of the Standing Sub-Committee on Matters of the European Union may be accomplished by a committee chaired by the Chairperson of the Standing Sub-Committee on Matters of the European Union (or his/her deputy) and composed of one member of each Parliamentary Group to be appointed by said Group. Said committee shall not be empowered to take decisions. After the committee has deliberated, the Chairperson shall communicate the views of the committee members to the President of the National Council, who shall in turn communicate these views to the Austrian representative to the Council of the European Union.

**§ 32.** (1) For the purpose of preliminary deliberation of items of business, the National Council shall elect Committees. The National Council shall determine the number of members and substitute members of each Committee. The members and substitute members shall be recruited from the Parliamentary Groups in proportion to their number of members in accordance with the principles laid down in § 30 above. The Parliamentary Groups shall communicate to the President the names of the members and substitute members to which they are entitled, which shall thereupon be considered elected. Whenever changes in the relative strength of the Parliamentary Groups reported to the President so require, the National Council shall, within one week of the President having been notified or - if no sittings are held during the period in question - at the latest in the second sitting following said notification, hold elections to determine the new Committee memberships. Up to the time the new Committees are constituted, the existing Committees shall continue their work with the previous membership. The committee deliberations in the course of a term of the National Council shall not be interrupted by the new elections.

(2) The provisions of (1) above notwithstanding, the National Council may decide, upon the President's proposal and after consultation of the President's Conference, that Committee membership shall be determined in a way that constitutes a departure from the principles for the assignment of members and substitute members laid down in § 30 above, on condition that the relative strengths of the parties in the committees reflect their relative strengths in the plenary.

(3) Committee members unable to attend shall be represented by elected substitute members belonging to their Parliamentary Group.

(4) A Committee member who is unable to attend may, after written notification of the Committee chairperson, be represented by a Member of his/her Parliamentary Group other than a substitute member.

**§ 32a.** (1) The Committee charged, in particular, with preliminarily deliberating the Draft Federal Framework Budget as well as the Federal Finance Act shall also participate in the administration of the budget under Arts. 51b and c (2) B-VG and undertake preliminary deliberations on the Federal Financial Accounts; subject to revocation, said Committee may refer certain tasks to a Standing Sub-Committee to be elected in accordance with § 31 above, which shall also participate in the administration of the budget under Arts. 51b and c (2) B-VG if the Federal President dissolves the National Council under Art. 29 (1) B-VG.<sup>13</sup>

(2) The Standing Sub-Committee shall be confidential unless it decides otherwise.

(3) Whenever necessary, the Committee or its Standing Sub-Committee shall be convened even during times when the National Council is not in session.

(4) The President shall refer all items of business under Arts. 51b and c (2) B-VG directly to the Committee or its Standing Sub-Committee, the time lapse stipulated in the last sentence of Art. 51b (2) B-VG beginning at the time of referral.

(5) In the course of the preliminary deliberation on a Federal Finance Law every Member entitled to sit on and vote in the Budget Committee shall have the right to address brief and concrete written questions to the government members present on condition that such questions are germane to the issue in hand. Such questions shall be announced by the Chairperson and copies thereof attached to the Official Record. The government member so queried shall under any circumstances, within a period of four working days from the time of submission, provide written answers to a maximum of five questions put by any one questioner. If the government member queried is not in a position to provide the desired information, this shall be stated in the answer and the reasons given. Upon receipt of the answers in writing, the President shall cause them to be copied and distributed to the questioners, the members of the Budget Committee and all Parliamentary Groups.

**§ 32b.** (1) For the purpose of reviewing measures for the protection of the Institutions provided for by the Federal Constitution and their capacity to act, and for reviewing measures of the information services designed to ensure military defence, the competent Committees of the National Council shall each elect one Standing Sub-Committee. Each of the parties represented on the Main Committee of the National Council shall have at least one Member on the Sub-Committee.

(2) The members of the Standing Sub-Committees shall retain their seats until the competent Committees have elected other members or until another member has been designated under § 36 (2).

**§ 32c.** (1) Every member of the Standing Sub-Committee as defined in § 32b may, in the course of a Sub-Committee sitting, request relevant information from the competent government member. Requests to be given access to documentation require a decision of the Sub-Committee to make such request.

(2) The government member queried shall be under no obligation to give the relevant information or give access to documentation if s/he is not in a position to do so or if compliance with the request might jeopardise national interests or the safety of persons.

**§ 32d.** (1) Standing Sub-Committees under § 32b shall, unless otherwise provided in the following paragraphs, be governed by the provisions regarding the organisation and work of Sub-Committees.

(2) The Sub-Committees shall in principle be convened by their Chairpersons once every three months. In addition, a sitting of the respective Sub-Committee shall be convened by its Chairperson at the request of one quarter of its members or of the competent government member and shall meet within two weeks.

(3) Sub-Committees may, as and when necessary, meet when the National Council is in recess.

(4) Unless otherwise decided, the deliberations of Sub-Committees shall be confidential. The members of the Sub-Committee shall be sworn to secrecy by the President of the National Council.

(5) Persons who are not members of the Sub-Committee and whose presence is not provided for by Art. 75 B-VG may be admitted to individual sittings upon decision by the Sub-Committee. The extent to which records of the deliberations shall be made shall be decided by the Chairperson. The record shall be signed by the Chairperson and the Secretary. The President of the National Council shall provide for the safe-keeping of the records.

**§ 32e.** (1) The Court of Audit Committee (§ 79 (2)) shall elect a Standing Sub-Committee, in which each party represented in the Main Committee shall have at least one member.

(2) The National Council may, upon a motion seconded by five members, decide to instruct said Sub-Committee to investigate a particular event subject to the provisions of § 99 (2). Alternatively, such action may, subject to the conditions stipulated in (3) below, be called for by one quarter of the members of the National Council.

(3) A demand under the last sentence of (2) above shall not be permitted if the subject matter in question is already being examined by the Court of Audit. In addition, demands of this nature must not be made as long as a previous demand is being complied with. If several demands are made by Members of different Parliamentary Groups, the President shall see to it that these demands are dealt with in alternation.

(4) The Sub-Committee shall commence deliberations within four weeks of a decision taken under the first sentence of (2) above or of receipt by the President of the National Council of a demand made under (2) second sentence above and shall report to the Court of Audit Committee within another six months. The Court of Audit Committee may decide to submit this report to the National Council.

(5) The Sub-Committee shall be governed by the provisions on the organisation and procedure of Sub-Committees as well as the provisions of § 32b (2).

**§ 33.** (1) On the basis of a procedural motion the National Council may decide to set up an investigating committee. Such a motion shall be submitted to the President in writing and shall state the subject of investigation, its objective and the composition of the investigating committee. Each of the parties represented on the Main Committee of the National Council shall have at least one member on the committee.

(2) Should a debate be called for by five Members including the mover(s), or should the National Council decide in favour of a debate, the debate and vote on the motion shall take place after the completion of the business on the agenda of the sitting. The debate shall be governed by the provisions of §§ 57a and 57b. Members belonging to the same Parliamentary Group may call for such a debate only once in every week of sittings. If such call for a debate is seconded by Members of several Parliamentary Groups, the demand shall be deemed to have been made on behalf of the Group to which the first sponsor belongs. If the first sponsor belongs to no Parliamentary Group, this provision shall hold with regard to the second sponsor and so forth. Should one fifth of the Members so demand in writing, the debate shall be postponed to the beginning of the next sitting.

(3) Proceedings in the Sub-Committee shall be governed by the "Rules of Procedure for Parliamentary Investigating Committees", which is annexed to this Federal Law and forms an integral part thereof. Unless otherwise stipulated in the present Rules of Procedure, the proceedings shall be governed by the provisions of the Law on the Rules of Procedure of the National Council.

**§ 34.** (1) The committee shall be convened for its constituent meeting by the President of the National Council.

(2) Each committee shall elect a chairperson and as many deputy chairpersons and secretaries as are deemed necessary. If the secretaries are unable to attend, the committee shall elect a secretary for the meeting in question.

(3) The meeting shall be chaired by the President of the National Council until the chairperson has been elected.

(4) The chairperson shall convene the meetings of the committee; s/he shall open and close the meetings and implement and enforce compliance with the Rules of Procedure; s/he shall maintain order during the meetings and shall have the right to suspend them.

(5) The chairperson may place the item "Debate on current issues within the remit of the committee" on the agenda of any meeting and shall be required to do so if, prior to the committee embarking upon the agenda,

1. the committee so decides or

2. such a debate is called for by a committee member and has not taken place for more than six months.

The committee shall not have the right to discuss matters of the administration of public funds while they are pending in the Court of Audit Committee (§ 79 (2)). In the course of the debate, only procedural motions may be made. The chairperson shall have the right to close the debate after the subject has been sufficiently discussed.

**§ 35.** (1) Every Committee may set up a Sub-Committee to engage in a preliminary deliberation of subject matter referred to it or may entrust such deliberations to an existing sub-committee. Investigating committees shall set up sub-committees solely for the purpose of drawing up draft reports.

(2) The Sub-Committee shall have consultative status; majority decisions can only be taken on procedural motions.

(3) The Sub-Committee shall be convened for its constituent meeting by the Committee chairperson. Each Sub-Committee shall elect a chairperson and as many deputy chairpersons and secretaries as are deemed necessary. The meeting shall be chaired by the Committee chairperson until the chairperson of the Sub-Committee has been elected.

(4) The chairperson of the Sub-Committee shall convene the Sub-Committee for its meetings and shall conduct its deliberations subject to the provisions of § 34 (4). In so doing, the provisions of § 41 other than those of paragraphs (2) to (4) shall be applied *mutatis mutandis*.

(5) Upon its chairperson's proposal the Sub-Committee shall decide

1. whether several matters entrusted to it for preliminary deliberation shall be dealt with jointly or separately;
2. if the Sub-Committee decides to deal with the matters jointly, which of several comprehensive motions shall serve as a basis for the deliberations;
3. whether the subject matters shall be debated jointly, in parts or separately in general and special debates.

(6) A Sub-Committee member who is unable to attend may, after written notification of the Sub-Committee chairperson, be represented by a Member of his/her Parliamentary Group. If the secretaries are unable to attend, an interim secretary shall be elected for the purposes of the meeting.

(7) Unless the Sub-Committee decides otherwise, its deliberations shall be confidential. The provisions of the penultimate and last sentences of § 32 (1), of §§ 36 and 37 except for para (4), and of §§ 38 to 40 shall apply *mutatis mutandis*.

**§ 35a.** (1) The Sub-Committee shall report the results of its deliberations orally or in writing through the Sub-Committee chairperson or an elected rapporteur.

(2) Even in cases where agreement has not been achieved on all parts of the draft, the chairperson or elected rapporteur may, under a decision of the Sub-Committee, submit to the Committee a new version of the entire text, the passages on which no agreement has been reached being suitably marked.

(3) The Committee may at any time, and even during the time when the Sub-Committee is deliberating on the subject matter, determine a deadline for submission of the Sub-Committee report. In this case, the provisions of § 43 (2) and § 44 (3) shall apply *mutatis mutandis*.

**§ 36.** (1) Committee members are under the obligation to attend the meetings and work of their Committee.

(2) Committee membership shall expire if a Member retires from the Committee, if s/he ceases to belong to the Parliamentary Group by which s/he has been nominated, if the Parliamentary Group nominates another member to replace him/her, or if the Committee members have generally been newly elected under § 32 (1).

(3) Except for cases under § 32 (1), expiry of Committee membership shall take effect upon receipt of a communication to that effect by the President of the National Council. The President shall thereupon inform the chairperson of the Committee and, if necessary, have a new member nominated.

**§ 37.** (1) The President of the National Council may attend, in a consultative capacity, even the deliberations of those Committees of which s/he is not a member. Other Members may attend as observers.

(2) Committees may invite other Members to attend their meetings in a consultative capacity.

(3) The Committees are under the obligation to invite to those parts of their sittings which are devoted to the preparation of a popular initiative the Authorised Person pursuant to the Popular Initiatives Act of 1973 as well as two deputies, to be nominated by him/her under § 3 (3) sub-paragraph 3 of that Act.

(3a) Should a Committee to which a popular initiative has been referred hold a general debate or a detailed discussion of the popular initiative in the presence of experts or other witnesses, said sittings shall be public pursuant to § 28b (2). The taking of pictures, videos and audio recordings shall be permitted.

(4) Members of the Federal Council shall have the right to attend the deliberations of Committees as observers.

(5) Persons who are not authorised to attend Committee sittings under (1) to (4) above or under § 18 (1) or § 20 (1 and 5), may attend such meetings only if authorised (directed) to do so by the President of the National Council or the competent member of the Federal Government, the President of the Court of Audit or the President of the Ombudsman's Office.

(6) Every Committee may exclude from its meetings or parts thereof any persons who are neither Members of the National Council nor entitled to attend the deliberations under § 18 (1) and § 20 (1 and 5).

(7) The Committees may decide that and to what extent its deliberations and decisions shall be confidential. The Committee may also exclude from its confidential deliberations those Members who have no right to vote in the meeting; a decision to exclude such Members shall require a majority of two thirds of the votes cast.

(8) Under no circumstances can the Presidents of the National Council be excluded from a Committee meeting.

(9) When engaged in the preliminary deliberation of important bills and State Treaties, the Committees may decide to hear experts and other witnesses in a public sitting under § 28b (2). Sound, film and video recordings as well as the taking of photographs shall be permitted.

**§ 38.** (1) All Committee sittings shall be duly recorded and the Official Records signed by the Committee chairperson and one secretary and deposited with the Parliamentary Administration. The minutes shall be kept by staff of the Parliamentary Administration; the Committees may, however, decide to assign this task to a secretary.

(2) The Official Records shall list the items under deliberation, all motions made in the course of the meeting, the manner in which they have been disposed of, the results of all votes and the decisions taken.

(3) The Records shall be accompanied by an attendance list as well as notifications, if any, of committee members being absent and replaced by Members acting as their substitutes. Originals or copies of any documents that the chairperson has brought to the notice of members in the course of the meeting shall be annexed to the Records.

(4) The Records shall be considered approved if no objections have been raised to them on the working day following the Committee meeting. If any objections are raised, the chairperson shall have the power to rule on them.

**§ 39.** (1) The President of the National Council shall direct communications (press releases) concerning the activities of the committees to be published. The Committees themselves may, however, of their own accord transmit to the Parliamentary Administration texts (communiqués) signed by the chairperson and one secretary for publication.

(2) In exceptional cases the Committee chairperson may ask the President to instruct the stenographers to take down summary records of the proceedings, which shall immediately thereafter be annexed to the Official Records of the meeting. These summary records shall, in particular, include any statements in writing submitted by individuals present at the meeting.<sup>14</sup>

(3) If the Committee so decides, the President shall order the publication of such records.

**§ 40.** (1) The Committees may, through the President, ask members of the Federal Government to initiate investigations or summon experts or other witnesses to provide information orally or in writing; if such summonses entail costs the President's approval shall be sought.

(2) If an expert or other witness fails to comply with the summons, s/he may be brought before the Committee by the competent authority.

(3) Experts or other witnesses invited to appear before the Committee in order to make an oral statement and who have to travel for this purpose from their place of residence or work to the domicile of the National Council shall be entitled to reimbursement of their costs. Reimbursement shall be effected by the Parliamentary Administration on production of the relevant evidence. In such cases the provisions governing travel expenses of federal civil servants shall be applied *mutatis mutandis*.

(4) In connection with preliminary deliberations on an item of business the Committee chairperson may, with the approval of the President, invite the Committee members to visit the relevant locations within the federal territory.

**§ 41.** (1) Committees shall be deemed to have a quorum if more than half of its members are present. Such a quorum shall only be required for the purposes of votes and elections. If a vote or election cannot take place because of the absence of a quorum, the chairperson shall suspend the meeting for a definite or indefinite period.

(2) At the beginning of a meeting the chairperson may change the order of business on the agenda and arrange for the deliberation of several items of business under one head. If any objections are raised, the Committee shall decide on such objections without debate. On the President's proposal or on the motion of a Member the Committee may, at the beginning of the meeting, decide with a two-thirds majority of those present to strike an item of business from the agenda or to deliberate on an item of business not on the agenda.

(3) At the beginning of deliberations on an item of business the Committee shall elect a Committee rapporteur, on whose proposal the item of business may be discussed in toto or in parts or in separate general and special debates. If any objections are raised, the Committee shall decide on such objections without debate.

(4) If the Committee has been seized of several comprehensive motions, it shall decide on which of them the debate and voting shall be based. A general debate may take place prior to voting. If the written report of a Sub-Committee contains a new version of the entire text of a draft under the provisions of § 35a (2), that text shall form the basis for deliberations.

(5) The Committee chairperson shall recognise the members who have asked for the floor in the order in which they have made their requests.

(6) On the chairperson's proposal, the Committee may, for certain of its deliberations, decide by a two-thirds majority of the members present to limit the time for each member who has asked for the floor. On no account shall speaking time be limited to less than one quarter of an hour for each speaker.

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14 As amended in BGBl. I No. 11/2010

(7) After at least three members who have asked for the floor have actually spoken, a motion to close debate may be made at any time on condition that the member holding the floor is not interrupted; the chairperson shall put any such motion to the vote immediately. If the motion is carried, all members who have already asked for the floor shall have the right to speak. If at the time of the vote the chairperson has no further requests for the floor, each of the Parliamentary Groups represented on the Committee (§ 32) shall have the right to appoint a speaker from its midst.

(8) Amendments modifying or adding to the text under deliberation may be made by all Members entitled to vote in the meeting; such amendments shall be presented to the chairperson in writing and may be accompanied by a statement of reasons. If a motion to close debate has been carried, Members desirous of moving an amendment may, immediately after closure, submit their amendment to the chairperson, who shall communicate it to the Committee.

(9) Unless expressly decided otherwise, all decisions in the Committee shall be taken with a majority of the Committee members present. The chairperson shall have a vote like all other members. The exercise of the right to vote shall be governed, *mutatis mutandis*, by the provisions of § 64. In case of a tie the motion shall be lost.

(10) The provisions of (9) above shall apply *mutatis mutandis* to elections to be held in the Committees. In case of a tie a second ballot shall be held. If the tie is not broken by the second ballot, the decision shall be taken by drawing lots.

(11) If the chairperson so orders or one fifth of the number of Committee members determined by the National Council so demand, a roll-call vote shall be taken. Prior to voting the chairperson shall determine and announce the names of those entitled to vote. The result of the roll-call vote shall be recorded both in the Official Records of the Committee meeting and in the written Committee report to the National Council.

(12) The adjournment of deliberations, factual corrections, the discussion and vote on procedural motions, the order of voting as well as the call to speak to the point and the call to order shall be governed, *mutatis mutandis*, by the provisions governing the sittings of the National Council.

## VII. Reporting by Committees

**§ 42.** (1) At the end of its deliberations the Committee shall elect a rapporteur who shall summarise the results, and in particular the decisions of the Committee, for the National Council in writing. When reporting about a popular initiative, the rapporteur shall take into consideration a brief summary of the personal opinion of the Authorised Person under § 37 (3) to the extent that it is in conflict with the main report. The report shall be signed by the chairperson and rapporteur and submitted to the President of the National Council, who shall order it copied and distributed to the Members.

(1a) Reports on a popular initiative shall also be transmitted to the Authorised Person pursuant to § 37 (3) and his/her deputies pursuant to § 3 (3) sub-paragraph 3, Popular Initiatives Act of 1973. In addition, the President shall order publication of the reports on a popular initiative in the official gazette of Wiener Zeitung. Moreover, all persons whose names have been entered in the electoral register and who have their main residence on federal territory shall have the right to receive, upon request, said reports by post without delay and free of charge.

(2) As long as the report has not been presented to the National Council, the Committee may change its decisions at any time. The number of votes by which a decision is modified must not be smaller than the number of votes by which the decision now to be modified was first taken. If the number of votes by which the decision was originally taken cannot be established, modification of the decisions in question shall require a two-thirds majority of the members present.

(3) Once the report has been presented to the National Council it can only be withdrawn with the latter's agreement.

(4) If a minority of at least three participants in the deliberations of the Committee who are entitled to vote (§ 32) wish to present their dissenting opinion, they shall have the right to present a separate (minority) report in writing.

(5) In addition, any individual who has participated in the Committee deliberations and is entitled to vote may present his/her dissenting opinion in a brief personal statement in writing.

(6) Minority reports under (4) and statements under (5) above shall be submitted to the President in time to allow their being deliberated on at the same time as the main Committee report. The President shall order the copying and distribution of such minority reports and statements to the Members. They shall be attached to the Committee report if the deadline stipulated in § 44 (1) can be met. Oral presentation of reports to the National Council shall not be permitted.

**§ 43.** (1) Upon proposal by the President or upon a motion tabled by a Member under § 59 (1) the National Council may at any time - including the time during which an item of business is being deliberated in Committee - determine a deadline by which the Committee shall submit its report. Such a proposal by the President or motion shall be announced before the National Council has entered upon the agenda of the sitting. Unless a debate takes place, the President shall put the proposal or motion to the vote after the end of the deliberations of that sitting; if there is a debate, the vote shall take place after its end.

(2) The deadline for submission of the report may be extended by the National Council before the period has expired. A motion to this effect shall be subject to the same conditions as a motion under (1) above.

(3) The provisions concerning the procedural debate (§ 59 (3)) notwithstanding, five Members may, before the agenda is embarked upon, deposit in writing a demand for a debate on motions under (1) or (2) above. The debate shall be governed by the provisions of §§ 57a and 57b. Members belonging to the same Parliamentary Group may call for such a debate only once in every week of sittings. If such call for a debate is seconded by Members of several Parliamentary Groups, the demand shall be deemed to have been made on behalf of the Group

to which the first sponsor belongs. If the first sponsor belongs to no Parliamentary Group, this provision shall hold with regard to the second sponsor and so forth.

**§ 44.** (1) As a rule, deliberations in the National Council on an item of business subject to preliminary deliberations in a Committee shall not take place sooner than 24 hours after distribution of the Committee report.

(2) The requirement for the Committee report to be copied and for the 24-hour limit to be respected can only be dispensed with upon a proposal of the President carried by a two-thirds majority vote.

(3) After expiry of a deadline for submission of a Committee report, deliberations on the item of business shall take place in the sitting following the expiry of the deadline even if no written Committee report has been submitted.

(4) If a Committee has failed to elect a rapporteur to submit the report to the National Council, the chairperson or, in his/her absence, a deputy chairperson may present an oral report.

**§ 45.** If an investigating committee is unable to present a report in writing within the period set for presentation under § 43, the chairperson of the investigating committee or his/her deputy shall present an oral report about the activities of the investigating committee at the sitting following expiry of the period. If the National Council does not set a further period for presentation of a committee report in writing, the activity of the investigating committee shall come to an end.

## VIII. Sessions and Sitzings of the National Council

**§ 46.** (1) The Federal President shall convene the National Council every year for an ordinary session, which shall not begin before the 15th of September and not end after the 15th of July of the following year.

(2) The Federal President may also convene the National Council for extraordinary sessions. If the Federal Government or at least one third of the Members of the National Council or the Federal Council so require, the Federal President shall be under the obligation to convene an extraordinary session, which shall begin within two weeks of the receipt of the request by the Federal President at the latest. If the convocation of an extraordinary session is called for by Members of the National Council or by the Federal Council, a proposal by the Federal Government shall not be necessary.

(3) The Federal President shall close the sessions of the National Council following a decision of the same to that effect.

(4) If a new session of the National Council is convened within one and the same term, its business shall commence at that point at which it was at the time the previous session was closed. At the time a session is closed, individual Committees may be instructed by the National Council to continue their work during the recess. Such an instruction may relate to specified items of business.

(5) During the course of a session, the President of the National Council shall convene the individual sittings.

(6) During the course of a session the President shall have the duty to convene a sitting of the National Council to take place within eight days - Saturdays, Sundays and public holidays not included - if twenty Members so demand and indicate the subject to be considered; any one Member shall support such a demand no more often than once a year. If a Parliamentary Group is composed of fewer than 20 members, it may nevertheless make such a demand once a year in good and due form if said demand has the support of all the Members belonging to the respective Group. In this case, too, no one Member may give his support to such a demand more often than once a year.

(7) During the course of a session the President shall also have the duty to convene a sitting of the National Council to take place within the same period as stated in (6) above, if one third of the members or the Federal Government so demand.

**§ 47.** (1) The sittings of the National Council shall be open to the public.

(2) The public shall be excluded if the President or one fifth of the Members so demand and the National Council so decides after the public has left.

(3) Official Records (§ 51) shall be kept of the deliberations that take place in camera. The Records shall be read in the course of the same sitting and deemed approved if no objection is raised. If there are objections, the President shall rule on them during the same sitting. The National Council shall decide even before the public is readmitted whether or not the Minutes of the sitting in camera are to be published.

(4) The National Council shall also be free to decide that the deliberations in camera are recorded in the form of a stenographic record, about the publication of which the National Council shall decide.

**§ 48.** (1) The presence of a quorum shall be required only for the purposes of votes and elections.

(2) If a vote or election cannot take place because there is no quorum the President shall suspend the sitting.

**§ 49.** (1) The President shall open the sitting at the appointed hour irrespective of the number of Members present and shall make the communications s/he deems appropriate. In particular, s/he shall announce apologies for absence on the part of Members and indicate the individuals who deputise for members of the Federal Government who are prevented from attending (Art. 73 B-VG).

(2) The President may also make communications in the course of or at the end of a sitting.

(3) The President shall announce the entry upon the agenda.

(4) Before the agenda is embarked upon, the President may change the order of items of business on the agenda and rule that the debate about several items of business shall take place jointly. If there are any objections to this ruling, the National Council shall decide the issue without debate.

(5) Upon proposal by the President or upon a motion tabled by a Member the National Council may, before the agenda is embarked upon, decide by a two-thirds majority that an item of business be removed from the agenda or that an item of business not on the agenda is to be deliberated upon.

(6) Even after the agenda has been embarked upon, the President may, after consultation with the members of the President's Conference, propose to the National Council that one or more items of business be removed from the agenda. The National Council shall decide this question without debate by a two-thirds majority.

**§ 50.** (1) As a rule, the President shall at the end of each sitting announce the day, hour and, whenever possible, agenda of the next sitting envisaged. This may be done by referring to a written communication distributed in the meeting hall. If there is an objection, the issue shall be decided by the National Council unless the President accepts the objection. As a rule, all the objections raised in such a case shall be debated jointly, and the President may limit the time allotted to each speaker in this debate to five minutes and the number of speakers per Parliamentary Group to three; if five Members belonging to the same Parliamentary Group so require, a separate debate shall take place on all of the objections raised by that Parliamentary Group, and the President shall have the right to limit speaking time and the number of speakers in the same way as in the joint debate. The President shall determine the order in which several debates are to take place in accordance with the principles stipulated in § 60 (3). The vote on all the objections raised shall take place after the end of the debate or, in the case of several debates, after the end of the last. If no objection is supported by a majority, the President's proposal shall stand.

(2) The President shall have the right to place elections on the agenda of his own accord.

(3) If the day, hour and/or agenda of the next sitting have not been announced in accordance with (1) above, the announcement shall be made in writing and communicated to each Member and each Parliamentary Group. In addition, the President may have announcements to this effect posted in the Parliament building and publicised by the press, radio and other media.

(4) Objections to an agenda announced by the President as indicated in (3) above can only be raised immediately after the opening of the sitting. In such cases the provisions of (1) above shall be applied *mutatis mutandis*.

**§ 51.** (1) Official Records of all sittings shall be kept by staff appointed for this purpose by the Parliamentary Administration; these records shall, on the day following the sitting, be open to inspection by the Members on the premises of the Parliamentary Administration during the latter's opening hours.

(2) Objections to the form or content of the Records shall be communicated to the President outside the sitting during the time that the Records are open for inspection, and the President shall have them corrected if s/he considers the objection to be justified.

(3) If no objections to the Records are raised or the President has ruled on any objection raised, the Records shall be deemed approved after the lapse of the period indicated in (1) above or once the President has made his/her ruling.

(4) The contents of the Records shall be limited to the items of business deliberated upon, the issues voted on, the results of the votes, and the decisions taken.

(5) The Records shall be signed by the President and one secretary. Copies shall not be made, but the President may announce at the sitting following approval of the Records whether any objections were raised and what his/her ruling was.

(6) In exceptional cases, a part of the Official Records shall be considered approved at the end of a sitting if the President has read, upon a demand in writing on the part of at least 20 Members, the envisaged version of the Official Records covering specific items of business that have been completed and if s/he has ruled on any objections - to be made immediately - to the form or content of that part of the Official Records. There shall be no debate.

**§ 52.** (1) Stenographic records shall be made of the public sittings of the National Council and published in printed form; these records shall reflect the deliberations in extenso.

(2) Each speaker shall receive, before his/her statements are printed, a copy of the stenographic record so that s/he can make editorial corrections. In case of doubt the President shall rule on the admissibility of such corrections. Unless objections are raised or the copy is returned within the period allowed for correction the record shall go to print.

(3) The stenographic records shall list the items of business received during and/or since the last sitting.

(4) The items of business enumerated in § 21 (1) and (2) other than requests for the approval of the public prosecution of Members under the first sentence of § 10 (2 and 3), requests for a decision on a possible connection with the political activities of the Member as outlined in § 10 (3), and notifications on the part of authorities under § 10 (5); requests of authorities under Art. 63 (2) B-VG; requests for the authority to prosecute persons for insulting the National Council; and petitions and citizens' initiatives shall be published as annexes to the stenographic records. The same shall apply to written questions and answers thereto as well as committee reports and minority reports.

(5) If the requirement of copying and distributing items of business or parts thereof has been dispensed with (§ 23 (2)), they shall not have to be published as annexes to the stenographic records either.

## **IX. General Provisions concerning the Consideration of Business in Sitzings of the National Council**

**§ 53.** (1) The debate on an item of business that has been preliminarily deliberated in Committee shall be opened by the rapporteur or, in his/her absence, the committee chairperson or, in the latter's absence, by a deputy chairperson. Should the report be dispensed with, or in the absence of all the persons enumerated in the first sentence above, the debate shall commence with the first speaker who has asked for the floor.

(2) The President may decide that certain parts of the item of business shall be deliberated separately. In so doing, s/he shall see to it that the division of the debate and vote shall exclusively serve clarity. The National Council shall decide without debate on any objection raised against dividing the subject.

(3) Amendments may be moved by all Members once debate on that part has been opened and in respect of any decision to be taken by the National Council and shall be considered if they are supported by at least five Members including the mover. If a motion is not signed by five Members, the President shall ask for seconds, and the seconding Members shall rise from their seats to indicate their support.

(4) Such motions shall be submitted to the President in writing and read, as a rule, by one of the Members having signed the motion. Upon the President's instruction, however, the reading may be effected by one of the secretaries. If draft amendments go into considerable detail, the President may in the interest of expediting deliberations order them to be copied and distributed to the Members on condition that one of the sponsors explains the key subjects of the motion orally. Such motions to amend shall be annexed to the stenographic records.

(5) The National Council shall have the right to refer any such motion to the competent Committee and to adjourn deliberations on the item of business until a new Committee report has been presented.

(6) Once the list of speakers has been exhausted, the National Council may decide

1. to adjourn the sitting,
2. to refer the item back to the Committee, or
3. to consider the matter lapsed.

A decision in accordance with (3) above shall terminate consideration of the business in hand.

(7) Upon the president's proposal the National Council may at any time during the deliberations on an item of business decide by a two-thirds majority to adjourn the business in hand. Such decision shall be taken without debate.

(8) In those cases in which consideration of an item of business lasts several days and the decision has been taken to divide the debate and vote thereon, the National Council may after deliberation of each of the parts of the item decide to adjourn deliberation on the item of business in order to deliberate on other items of business during one or more sittings.

**§ 54.** If the National Council decides to refer an item of business back to the competent Committee, it may upon the President's proposal or on the motion of a Member determine a period after the expiry of which deliberations in the National Council shall be continued even if no written Committee report has been submitted or the Committee has not elected a rapporteur to present its report to the National Council.

**§ 55.** (1) Resolutions in which the National Council expresses its wishes concerning the exercise of the executive power (Art. 52 (1) B-VG) or by which the National Council expresses its lack of confidence in the Federal Government or individual members of the same (Art. 74 (1) B-VG) may also be moved in the course of a debate about an item of business before the National Council, if said resolutions are germane to the issue in hand. Any objections to the germaneness of such resolutions shall be ruled on by the President.

(2) Motions for resolutions under (1) above shall be dealt with if they are supported by at least five Members including the mover. If the motion is not signed by five Members, the President shall ask for seconds, and the seconding Members shall rise from their seats to indicate their support. No motions to amend the said draft resolution shall be moved.

(3) Motions for resolutions shall be submitted to the President in writing and read out by one of the Members who have signed them. Upon the President's instruction, however, the reading may be effected by one of the secretaries. Sentences 3 and 4 of § 53 (4) shall apply *mutatis mutandis*.

(4) Voting on draft resolutions under (1) above or § 27 (3) shall, without prejudice to the provisions of (5) below and of § 67 (1) and (3), take place after the third reading in the case of bills and, in the case of all other items of business, after the last vote on the item, and in the case of items of business on which no vote is taken, after the end of the debate.

(5) If in the course of a second reading the special debate on a bill is performed in parts, votes on draft resolutions may be taken immediately after the vote on each part of the bill under consideration. Should an objection be raised, the National Council shall decide without debate.

**§ 56.** (1) A motion for closure of debate can be offered at any time without interrupting a speaker after at least two Members who have asked for the floor have spoken. The President shall put such motions to the vote immediately without debate.

(2) If the motion for closure is carried, the Members on the list of speakers shall not be recognised, but each Parliamentary Group shall have the right to designate one more speaker.

(3) Members who wish to move an amendment may, if the National Council has decided to close the debate, immediately submit their motions to the President, who shall communicate them to the Members and ask for seconds unless the motion has been signed by five Members.

(4) After a motion for closure has been carried, the only persons other than the speakers designated by the Parliamentary Groups that may take the floor shall be the rapporteur (§ 63 (3)) and, in the case of a private Member's motion, the mover or one of the movers.

**§ 57.** (1) In the debates of the National Council each Member shall in principle not speak for more than 20 minutes, all other provisions concerning speaking times notwithstanding. In individual cases the National Council may, if the President so proposes, allow a longer speaking time. After consultation with the members of the President's Conference, the President may propose that the National Council allow longer speaking times for debates of special importance.

(2) The speaking time of each Member in a debate or, if the debate is held in parts, in each part thereof may be limited to less than 20 minutes but not less than 10 minutes if

1. the National Council so decides before the debate is opened at the latest, or
2. the President so orders - even in the course of a debate - after consultation with the President's Conference.

In addition, the National Council may decide, or the President may order, that the speaking time be reduced to five minutes per speaker from the third speaker for each Parliamentary Group onwards.

(3) After consultation with the President's Conference, the President may, before embarking on the agenda or, at the latest, before opening the debate

1. order that the total speaking time of Members of the same Parliamentary Group in the debate or, if the debate is held in parts, in each part thereof shall not exceed a certain amount of time, or
2. put to the vote of the National Council a proposal concerning arrangements for and the duration of the debate on one or more items of business or the entire agenda.

(4) The total speaking time for the Members of the same Parliamentary Group in accordance with (3.1) above may, after consultation of the President's Conference, also be decided before the beginning of the debate at the latest, in which case the speaking time allotted to the speakers for one and the same Parliamentary Group shall not be less than 30

minutes. This provision shall not hold for joint debates of several items of business under § 49 (4).

(5) After consultation in the President's Conference, the total speaking time to be allowed the Members of the same Parliamentary Group in the debates covering several or all of the items on the agenda of a sitting may also be decided by a two-thirds majority before the agenda is embarked upon; in this case the speaking time allotted to the speakers for one and the same Parliamentary Group shall be not less than 60 minutes and the total speaking time not more than ten hours.

(6) If a ruling has been made in accordance with (3.1) above or a decision taken in accordance with (3.2), (4) or (5) above, speaking time shall no longer be limited under (2.1) above.

(7) For Members who do not belong to any Parliamentary Group, speaking time may be limited to no less than 10 minutes per debate by a ruling or decision under (3), (4) or (5) above.

(8) If a member of the Federal Government or a State Secretary speaks for more than 20 minutes in a debate subject to a limitation of speaking time under (3), (4) or (5) above, each Parliamentary Group that intends to express an opposing view may exceed its speaking time by as much as the member of Government or State Secretary has exceeded it.

(9) The limitation of speaking time shall not be subject to debate.

**§ 57a.** (1) Brief debates on

- a) a written answer to a question addressed to the Federal Government or one of its members (§ 92),
- b) a motion to set a deadline (§ 43) or on
- c) a motion to set up an investigating committee (§ 33)

shall be opened by the mover or a Member who has signed the motion in question, said speaker being allowed a speaking time of ten minutes. Following this speaker, each Parliamentary Group may name one speaker, who shall be allowed five minutes. If several Members ask for the floor simultaneously, the order in which they are given the floor shall reflect the numerical strength of their Parliamentary Group.

(2) The speaking time allotted to Members of the Federal Government or State Secretaries who may take the floor under § 19 (1) shall be no more than ten minutes.

(3) The provisions concerning factual corrections (§ 58) shall not apply.

(4) Debates under (1a and b) above shall take place after the agenda has been exhausted but not later than 3 p.m. If a debate on an urgent question or urgent motion has been called for to take place on the same day, the debates under (1a and b) shall take place after the debates on such urgent question or motion. Debates under (1c) shall take place after the agenda has been exhausted.

**§ 57b.** (1) On each day devoted to sittings, only one urgent question or urgent motion shall be called up. If an urgent question or urgent motion has been tabled for a specific sitting, a debate shall only be possible in respect of items under § 57a (1a or b).

(2) If an urgent discussion has been requested in respect of several questions, the urgent question of that Parliamentary Group shall be called up whose last urgent question antedates all others.

(3) The provisions of (2) above shall apply *mutatis mutandis* when there is a collision between several requests for urgent discussion on a motion or a collision between urgent motions and urgent questions. The provisions of (2) above shall also apply *mutatis mutandis* in deciding the question which debate under § 57a (1a or b) shall be called up after an urgent question or urgent motion.

(4) At a sitting called for in accordance with § 46 (6) and the first case mentioned in § 46 (7), the provisions of (2) and (3) above shall not hold, and the urgent motion or urgent question to be called up shall be the motion or question tabled by that Parliamentary Group of the

Members, or of the majority of Members, that have demanded that the sitting in question be convened.

(5) If no request for an urgent discussion of a question or motion has been made for a particular sitting, the debates shall be called up under § 57a (1a or b). Regarding the order in which they are to be disposed of, § 60 (3) shall apply *mutatis mutandis*, but debates under § 57a (1a) shall be called up before the debates under § 57a (1b).

**§ 58.** (1) If a Member rises in the course of a debate in order to make a factual correction the President shall, as a rule, give him/her the floor immediately but without interrupting a speaker, or at the latest immediately after the end of the debate on the item of business in question.

(2) A factual correction shall start with a repetition of the statement to be corrected to be followed by a presentation of the correct facts with which that statement is at variance.

(3) A rejoinder in response to a factual correction may be made only by a Member referred to in person in the course of the presentation of the rectified facts under (2) above; when taking the floor, that Member shall confine himself/herself to a presentation of the facts.

(4) If a Member violates the provisions of (2) or (3) above, the President shall rule him/her out of order.

(5) A factual correction and a rejoinder thereto shall not exceed a duration of two minutes. In exceptional cases the President may allow the speaker more time if s/he so requests.

**§ 59.** (1) The requirement of submission in writing shall not hold for procedural motions, nor do such motions require a second; unless the National Council decides under (3) below to hold a debate, the President shall put such motions to the vote immediately.

(2) If a Member takes the floor on a procedural motion without him/herself tabling a motion, the President shall have the right to give him/her the floor only at the end of the meeting.

(3) Upon proposal by the President or upon a motion tabled by a Member the National Council may decide to hold a debate. For such a debate the President may limit the speaking time of Members, the minimum time allowed being five minutes.

**§ 60.** (1) Members who wish to take the floor on an item of business to be deliberated on during a sitting shall announce their intention to an official of the Parliamentary Administration designated for this purpose and shall indicate whether they intend to speak "for" or "against". Such announcements may also be made by a Member charged to do so by his/her Parliamentary Group. Requests for the floor may be made at any time after beginning of the sitting.

(2) The Members that have claimed the floor shall be recognised in the order in which they have announced their intention, the first intervention being that of a speaker "against", following which speakers "for" and "against" shall speak in alternate succession.

(3) If two or more speakers "for" or speakers "against" announce their intention to speak at the same time, the President shall determine the order in which they are given the floor in such a way as to give a fair hearing to the different points of view while at the same time considering the relative strengths of the individual Parliamentary Groups and respecting the principle of alternation between speakers belonging to different Parliamentary Groups.

(4) In departure from the provisions of (1) to (3) above, no distinction shall be made between speakers "for" and "against" during the first reading of a bill, in a debate on the subject of an urgent question, and during a Debate on Matters of Topical Interest.

(5) Every speaker shall be free to withdraw his/her request for the floor or to cede his/her right to speak to another Member, unless that Member has already twice spoken to the item of business.

(6) Members who are not present at the time when they are recognised shall lose their right to speak.

(7) The rapporteur elected by a Committee to report to the National Council (§ 42 (1)) cannot take the floor as a speaker "for" or "against" on the subject covered by his/her report. This provision shall not apply if the rapporteur has refrained from presenting his/her oral report.

(8) After consultation with the President's Conference, the provisions of (1) to (3) above regarding the order in which Members shall be given the floor may be suspended up to the end of the legislative period at the latest.

**§ 61.** If one of the Presidents enters his/her name on the list of speakers, s/he shall as a rule reassume the chair only after the item in hand has been disposed of.

**§ 62.** (1) The rapporteurs, secretaries and speakers who have asked for the floor shall speak from the rostrums provided for them. Members shall speak from their seats, using the microphones provided for this purpose, only on procedural questions or in special cases in which the President permits them to do so.

(2) Members of the Federal Government, the President of the Court of Audit and the members of the Ombudsman's Office shall, if they ask for the floor under § 19 and § 20, respectively, speak from the Government bench.

**§ 63.** (1) No Member shall speak more than twice in any one debate.

(2) Requests for the floor on the part of members of the Federal Government, the President of the Court of Audit and the members of the Ombudsman's Office shall be governed by the provisions of § 19 and § 20, respectively.

(3) If there are no further requests for the floor, the President shall close the debate and give the floor to the rapporteur for his/her final statement, if s/he so requests. A rapporteur under § 44(4) or § 45 shall only have the right to a final statement for the purpose of correcting typographical or linguistic errors.

**§ 64.** (1) All Members shall vote in person.

(2) Voting shall be confined to the Member signifying his/her approval or disapproval without any explanatory statement.

(3) In case of an equal number of affirmative and negative votes the question is negated.

**§ 65.** (1) After the end of deliberations the President shall as a rule announce that a vote is to be taken. If, however, the assembly is faced with motions under § 53 (3) that are comprehensive or of recent origin, or with demands or decisions under § 65 (15) or § 66 (3 or 4), and if a short suspension of the sitting is not enough to prepare the voting procedure, the President may postpone the vote (to the end of the sitting at the latest) and proceed in the meantime with the other items of business.

(2) The President shall indicate clearly the subject matter on which the vote is to be taken.

(3) Voting shall take place in such a way as to reflect the true sense of the majority of the National Council.

(4) For this reason, motions to amend shall as a rule be voted upon before the vote on the main motion, and the more extensive ones before the more restrictive amendments.

(5) Before the vote is taken, every Member may in the interest of clarity about the voting procedure or the result of the vote call for separate votes on certain parts of the subject matter.

(6) The President shall indicate in what form s/he intends to put the matter to the vote, which parts of the item under consideration will be voted on with due consideration being given to draft amendments, in how far s/he intends to comply with a possible request for separate votes, and in what order the voting will take place.

(7) Objections to this announcement by the President may be raised by any Member and shall, unless the President complies, be decided by the National Council without debate.

(8) Over and above the aforementioned cases, Members may, without interrupting the voting process, only request corrections or clarifications concerning the President's wording of

the questions to be voted on. If the President fails to accept such request, it shall be voted on immediately and without debate.

(9) The President shall be free, if s/he considers it useful in the interest of simplicity or clarity of the voting or in order to dispense with unnecessary ballots, to precede the ballot by a vote on a matter of principle.

**§ 66.** (1) Voting shall as a rule be by the Members rising from their seats or remaining seated.

(2) If an electronic voting system is available, the President may use the same for elections and voting and determine with its help the results of said election(s) and voting. In the case of electronic voting the votes cast by each individual Member are displayed. Each Member shall upon request receive a printout of the voting record. If the President so orders or at least 20 Members so request before the end of the sitting, the names of the Members and the votes they have cast shall be reflected in the Stenographic Record.

(3) Any Member may, before any vote is taken, demand that the President announce the numbers of those voting "for" or "against" an issue. However, the President may, at his/her discretion, rule from the start or if the result of a vote appears doubtful to him/her, that voting be by name.

(4) If at least 20 Members demand in writing before the voting procedure is commenced that voting be by name, the demand shall be granted without delay. Unless voting by name has been demanded, the National Council may decide, upon the proposal of the President or upon a motion of 20 Members, that a secret ballot be held.

(5) When voting is by name or by secret ballot, the votes shall exclusively be cast by means of official ballots marked "yes" or "no". The official ballots for voting by name shall, in addition, bear the name of the Member and shall have different colours depending on whether they are marked "yes" or "no". In each of the two voting procedures, Members shall be called by name and shall place their ballots in one and the same ballot box, those voting being counted at the same time. Members who are absent at the time their name is called cannot vote subsequently. The President may also decide to have the voting by name take the form of the names of the Members being called up in their alphabetical order and the vote being cast viva voce by the Members responding by "yes" or "no".

(6) If five Members so demand, balloting booths shall be provided for the purposes of the secret ballot. The voting shall take place in the same manner as described in (5) above, the Parliamentary Administration taking care, however, that each Member can fill in his/her ballot and place it in the requisite envelope in a booth without being observed. The ballot and the envelope shall be handed to Members by staff of the Parliamentary Administration prior to their entry into the balloting booth; the envelope with the ballot shall be placed into the ballot box immediately after the Member has left the balloting booth.

(7) As soon as the President has declared the secret ballot closed, the staff members of the Parliamentary Administration shall, under the supervision of the Secretaries, count the votes and inform the President of the numerical result. If, in the case of a vote by name, the number of ballots or, in the case of a secret ballot, the number of envelopes does not agree with the number of Members that have actually voted, the ballot shall be repeated if the discrepancy is deemed to be likely to affect the result.

(8) The President shall announce the result of the vote. In the case of a vote by name, the names of the Members and their votes shall be reflected in the Stenographic Record.

**§ 67.** (1) If one fifth of the Members so demand in writing, the vote

1. on a resolution by which the National Council expresses its lack of confidence in the Federal Government or individual members thereof (Art. 74 (1) B-VG) and
2. on a bill concerning the dissolution of the National Council (Art. 29 (2) B-VG)

shall be postponed to the second working day thereafter.

(2) Any further postponement of the votes mentioned in (1) above shall require a decision of the National Council.

(3) Voting on motions to set up an investigating committee and on draft resolutions in a debate on the subject of an urgent question shall be governed by the provisions of, as the case may be, §§ 33 (2) and 93 (6).

**§ 68.** (1) As a rule, the President chairing the sitting shall not participate in the vote. S/he may, however, before announcing the result of a vote, participate in the same by orally answering the question voted on affirmatively or in the negative. The President chairing the sitting shall always participate in voting by name and in secret ballots (§ 66 (4) and (5)) as well as in elections.

(2) The provisions of (1) notwithstanding, members present at a sitting must not abstain from voting. This also holds for Members who are at the same time members of the Federal Government or State Secretaries.

## X. Special Provisions regarding the Consideration of Bills

**§ 69.** (1) Bills shall reach the floor of the National Council in the form of motions submitted by Members, the Federal Council or one third of the Members of the Federal Council, and as government bills.

(2) Every petition filed by 100 000 citizens entitled to vote or by one sixth of the citizens entitled to vote in each of three provinces (popular initiative) shall be submitted by the Federal Election Board for consideration by the National Council. The popular initiative shall concern a matter to be settled by federal legislation and may take the form of a bill.

(3) Bills under (1) and (2) above other than private Members' motions shall only be admitted to a first reading if the National Council so decides. A motion to this effect may be made either before entry into the agenda of the sitting following the distribution of the bill or after the end of the deliberations of that sitting.

(4) A first reading shall take place in the case of bills submitted by Members (private Members' bills) if explicitly required in the text of the bill. If the mover demands that the first reading take place within three months, this demand shall be considered in drafting the agendas of the National Council. At the time of the first reading of such a bill, the mover or, in the case of several movers, the one designated by them shall be given the floor first.

(5) The first reading shall be confined to a discussion of the general principles of the bill.

(6) During the first reading the only motions allowed shall be motions for the appointment of a special committee for the preliminary deliberation on the bill. After the first reading, the President shall refer the bill to a committee.

(7) In cases in which no first reading is envisaged, the President shall refer popular initiatives, government bills and bills moved by the Federal Council during the second sitting following their distribution and private Members' motions during the sitting following their introduction.

**§ 70.** (1) The preliminary deliberation by the committee shall be followed by the second reading of the bill. Committee motions for the adoption of legislation shall immediately go to the second reading.

(2) The second reading shall consist of a general debate of the bill as a whole (general debate), deliberation on individual parts of the bill (special debate) and voting. The general and special debates shall take place at the same time unless the National Council otherwise decides upon a motion to that effect made by the rapporteur.

**§ 71.** (1) If the general and special debates are held separately, motions to adjourn proceedings, to refer the bill back to the competent committee, or to refer it to another committee may be made during the general debate. Such motions shall be voted on after the list of speakers in the general debate is exhausted.

(2) At the end of the general debate a vote shall be taken on whether the National Council is ready to enter upon the special debate.

(3) If the National Council decides to enter upon the special debate, the same shall follow immediately. If the National Council refuses to open the special debate, the item shall be lost.

**§ 72.** (1) At the beginning of the special debate the President shall determine which parts of the item of business are to be considered and voted upon separately or jointly. In so doing s/he shall respect the principle that the division of the special debate should facilitate the debate and promote the understanding of the subject in hand. If an objection is raised, the National Council shall decide without debate.

(2) If several comprehensive motions have been submitted, the National Council shall decide which of these shall form the basis of the special debate.

(3) Amendments may be moved by every Member in respect of each individual part of the bill as soon as the special debate on that part has been opened and shall be included in the deliberations if they are supported by at least five Members including the mover. Unless the motion bears the signatures of five Members, such support shall be expressed by the supporting Members rising from their seats when asked by the President whether there are any seconds.

(4) Amendments shall be submitted to the President in writing and read by one of the Members who has signed them. Upon the President's instruction, however, the reading may be effected by one of the secretaries.

(5) The National Council may refer every such amendment to the competent committee and adjourn the deliberation until the committee presents a new report on the bill in question.

(6) After a part of the item of business has been deliberated it shall be put to the vote. After the list of speakers has been exhausted, the National Council may decide

1. to adjourn deliberation,
2. to refer the subject matter back to the competent committee, or
3. to pass on to the next item on the agenda.

In case of a decision according to (3) above, the deliberation shall be deemed completed.

**§ 73.** (1) If the general and special debates are held jointly, the provisions of § 72 (2-5) shall apply *mutatis mutandis*.

(2) Even if the general and special debates are held jointly, the President may rule that parts of the item of business be debated and voted on separately. If an objection is raised, the National Council shall decide without debate.

(3) Once the list of speakers on the entire item of business (1 above) or on each part thereof (2 above) is exhausted, the National Council may decide

1. to adjourn deliberation,
2. to refer the subject matter back to the competent committee, or
3. to consider the matter lapsed.

A decision in accordance with (3) above shall terminate consideration of the business in hand.

**§ 74.** (1) The third reading, i.e. the vote on the whole bill, shall take place once the bill has been adopted in the second reading. Upon the President's proposal or a motion by a Member the National Council may decide not to have the third reading immediately after the second reading but to postpone it to some later date.

(2) The only motions that may be made during the third reading are motions to resolve contradictions that may have resulted from the decisions taken in the course of the second reading, to correct typographical or linguistic errors. Draft resolutions cannot be submitted during the third reading.

(3) A debate on motions made during the third reading shall be allowed only if the National Council so decides in individual cases. Speaking time in such a debate shall be limited to five minutes for each speaker.

## Xa. Urgent Motion

**§ 74a.** (1) Before entry upon the agenda, five Members may demand that, after the agenda has been exhausted but not later than 3 p.m. and not earlier than three hours after entry upon the agenda, the motivation for a private Member's motion, to be made at the same time and comprising a resolution by which the National Council expresses its wishes concerning the performance of the Executive Branch, be presented orally by one of the sponsors, and followed by a debate on the issue in question.

(2) § 93 (1 and 2) shall apply with regard to the support required for urgent motions; however, an urgent motion called up for discussion shall not be counted for the purpose of calculating the permissible number of motions allowed to each Member or Parliamentary group under § 93 (1 and 2). The provisions of § 57b shall govern the manner and conditions in which urgent motions may be called up.

(3) At the request of five Members the National Council may decide, without debate, before entry upon the agenda that, after the agenda has been exhausted but not later than 3 p.m. and not earlier than three hours after entry upon the agenda, the motivation for a private Members' motion under (1) above be presented orally by one of the sponsors, and followed by a debate on the issue in question. An urgent motion so decided shall not be subject to the limitation under § 57b (1).

(4) Following the presentation of the motivation for the urgent motion and before the debate is opened, the competent member of the Federal Government or the State Secretary entitled to speak under § 19 (1) shall deliver his/her opinion on the issue in hand in a statement which should not exceed 20 minutes.

(5) The Member presenting the motivation shall have a speaking time of 20 minutes, each Member taking the floor in the subsequent debate ten minutes, and each Parliamentary Group a total speaking time of 25 minutes.

(6) The only motions that may be introduced during the debate are draft resolutions.

(7) The motions shall be put to the vote at the end of the debate. The President may defer voting on such motions to the beginning of the next sitting.

## **Xb. Special Provisions regarding the Consideration of EU Matters**

**§ 74b.**<sup>15</sup> (1) Consideration of EU matters shall take the form of

- a) Debates on EU Matters of Topical Interest and
- b) Statements by members of the Federal Government on EU matters followed by a debate, the provisions of § 31d. (5) notwithstanding.

(2) Debates on EU Matters of Topical Interest shall be governed, mutatis mutandis, by § 97a provided that

- a) they take place four times a year and are duly considered in establishing the programme of work under § 13 (5),
- b) in sittings that begin with a Debate on Matters of Topical Interest, the Debate on EU Matters of Topical Interest shall take place immediately thereafter and
- c) the Debate on EU Matters of Topical Interest is devoted to topics of general interest that fall within the competence of the European Union.

(3) Statements by members of the Federal Government on EU matters shall take place twice a year in close temporal proximity to a meeting of the European Council. Their purpose is to inform the National Council on subjects before the European Council, their effects on Austria and the position adopted on them by the Austrian Federal Government.

(4) Statements by members of the Federal Government on EU matters shall in all not exceed 25 minutes. Each subsequent speaker shall be accorded 10 minutes, the total speaking time allowed for each Parliamentary Group being 25 minutes.

(5) Only motions for a resolution shall be put in debates on an EU statement.

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<sup>15</sup> As amended in BGBl. I No. 12/2010

## **XI. Special Provisions regarding the Consideration of Other Items of Business**

**§ 75.** (1) Private Members' motions other than bills shall be referred by the President to a committee during the sitting following their distribution.

(2) Committee motions calling for decisions that do not regard adoption of legislation shall be dealt with by the National Council without any preliminary deliberation. This shall also hold for the reports of investigating committees and of the Main Committee (§ 21 (2)).

(3) The debate and vote on items mentioned in (1) and (2) above shall be governed by the General Provisions concerning the Consideration of Business in Sitzings of the National Council.

(4) If the National Council takes cognizance of the report of an investigating committee, the activity of that committee shall come to an end.

**§ 76.** (1) Government proposals other than bills shall be referred by the President to a committee for preliminary deliberation during the sitting following their distribution.

(2) Preliminary deliberation by the committee shall be followed by a debate and vote in accordance with the General Provisions concerning the Consideration of Business in Sitzings of the National Council.

(3) On the occasion of approving the conclusion of a State Treaty under Art. 50. para 2 (1) B-VG the National Council may decide to what extent said State Treaty shall be implemented by the adoption of legislation (Art. 50 para 2 (3) B-VG). The National Council may furthermore decide that said State Treaty or specifically designated parts thereof be made public in a suitable manner other than by publication in the Federal Law Gazette (Art. 49 para 2 B-VG).<sup>16</sup>

(4) If a State Treaty provides for the simplified form of amendment to be applied (Art. 60 para 2 (1) B-VG) the National Council may reserve the right to approve such amendments. Motions for a decision under paras 3 and 4 may also be introduced in the course of a preliminary deliberation. A motion that the National Council take such a decision may be made in the form of a committee motion under § 27 para 3 or in the form of an amendment introduced in the course of the debate in the National Council.<sup>17</sup>

**§ 77.** (1) Objections of the Federal Council to bills passed by the National Council shall be communicated to the National Council in writing by the Chairperson of the Federal Council (Art. 42 (3) B-VG) and referred by the President to a committee at the next sitting following their distribution. The committee seized of such an objection shall respond either by moving that the original bill be reaffirmed or by submitting a new bill.

(2) Preliminary deliberation by the committee shall be followed by a debate and vote in the National Council. If the committee proposes that the original decision of the National Council be reaffirmed, the General Provisions concerning the Consideration of Business in Sitzings of the National Council shall apply. If, however, the committee's proposal is for adoption of a new law, the National Council shall embark upon the second reading in accordance with the Special Provisions regarding the Consideration of Bills.

**§ 78.** (1) Reports of Members delegated by the National Council, or the National Council in conjunction with the Federal Council, to international parliamentary organisations, of Members of the National and Federal Councils participating in meetings of the Interparliamentary Union, as well as reports of the Ombudsman's Office and stenographic records of parliamentary

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<sup>16</sup> As amended in BGBl. I No. 11/2010

<sup>17</sup> As amended in BGBl. I No. 11/2010

hearings shall be referred to a committee for preliminary deliberation at the next meeting following their distribution.

(2) Preliminary deliberation by the committee shall be followed by a debate and vote in accordance with the General Provisions concerning the Consideration of Business in Sitzings of the National Council.

**§ 79.** (1) The Federal Financial Accounts shall be presented by the Court of Audit. The Court of Audit shall report to the National Council about its activities during the preceding year and about special auditing activities under § 99 by December 31 of each year. In addition, the Court of Audit may report to the National Council at any time about specific findings and introduce proposals thereon.

(2) The President shall refer reports of the Court of Audit for preliminary deliberation to the standing committee established for this purpose (Court of Audit Committee) at the sitting following their distribution. The Federal Financial Accounts shall in the same way be referred to the Committee in accordance with § 32a.

(3) The Committee shall commence preliminary deliberation of Court of Audit Reports within six weeks. The Court of Audit Committee may decide that witnesses be heard in open meeting subject to the provisions of § 28b (2). Sound, film and video recordings as well as the taking of photographs shall not be permitted. During the debate no intervention shall be longer than ten minutes. In addition, a time frame for the hearing shall be envisaged at the beginning of the sitting. Preliminary deliberation by the Committee shall be followed by a debate and vote in accordance with the General Provisions concerning the Consideration of Business in Sitzings of the National Council.

(4) In the case of the Federal Financial Accounts, the Committee's proposal shall, if its report is favourable, contain a bill to that effect. In this case the National Council shall embark upon the second reading in accordance with the Special Provisions regarding the Consideration of Bills.

**§ 80.** (1) Requests for the approval of the public prosecution of Members under § 10 (2 and 3, first sentence), requests for a decision on a possible connection with political activities of the Member as outlined in § 10 (3), and notifications on the part of authorities under § 10 (5), requests of authorities under Art. 63 (2) B-VG and requests for the authority to prosecute persons for insulting the National Council shall as and when received be referred by the President to the standing committee seized of such matters (Immunities Committee). Requests for the approval of the public prosecution of Members under § 10 (3, first sentence) and requests for a decision on a possible connection with political activities of the Member as outlined in § 10 (3) shall be communicated to the Member concerned.

(2) Preliminary deliberation by the committee shall be followed by a debate and vote in accordance with the General Provisions concerning the Consideration of Business in Sitzings of the National Council. During the parliamentary recess, notifications on the part of authorities under § 10 (5) shall be decided upon by the Immunities Committee acting on behalf of the National Council.

(3) The Committee shall report to the National Council about requests for the extradition of Members in good time to allow it to vote on said request at the latest on the penultimate day of the eight-week period provided therefore in § 10 (4).

(4) Should the Committee fail to report in good time, the President shall put the request for extradition to the vote on the penultimate day of said eight-week period at the latest.

**§ 81.** (1) If five Members so demand in writing, debates on declarations by members of the Federal Government and notifications of the appointment of members of the Federal Government and of State Secretaries shall take place immediately.

(2) If the demand is not expressly for said debate to take place immediately, the President shall determine the time for the debate after consultation of the President's Conference.

(3) If there are any objections to the immediate holding of a debate under (1) above, the National Council shall decide on such objections. In this case, however, the debate shall not take place later than at the end of the next sitting other than sittings under § 94 (5, third and fourth sentences).

## XII. Decisions and Elections

**§ 82.** (1) Unless otherwise provided below, decisions of the National Council shall require the presence of one third of the Members and the absolute majority of the votes cast.

(2) Requirements other than those indicated in (1) above shall obtain in the following cases:

1. Constitutional laws or constitutional provisions contained in simple laws shall require for adoption the presence of at least half of the Members and a majority of two thirds of the votes cast.<sup>18</sup>
- 1a. For the adoption of the conclusion of State Treaties by which the contractual bases of the European Union are changed (Art. 50 para 1 (2) B-VG) and the approval of decisions of the European Council concerning common defence (Art. 23f para 1 B-VG) the presence of at least one half of the Members of Parliament and a two-thirds majority of the votes cast shall be required.<sup>19</sup>
2. The present Federal Law can only be amended in the presence of at least half of the Members and with a majority of two thirds of the votes cast.
3. The reaffirmation of a bill adopted by the National Council against which the Federal Council has raised an objection shall require the presence of half of the Members.
4. A decision of the National Council expressing a vote of no confidence against the Federal Government or individual members thereof shall require the presence of half of the Members.
5. A decision of the National Council charging members of the Federal Government or organs having equal responsibility with violations of the law shall require the presence of more than half of the Members.
6. A decision of the National Council to have the Federal Assembly (Bundesversammlung) convened by the Federal Chancellor in accordance with Art. 60 (6) B-VG shall require the presence of at least half of the Members and a majority of two thirds of the votes cast.
7. A bill adopted by the National Council concerning an issue enumerated in Art. 14 (10) and Art. 14a (8) B-VG shall require the presence of at least half of the Members and a majority of two thirds of the votes cast. The same shall also obtain in respect of the approval of the conclusion of state treaties concerning matters enumerated in Art. 14 (10) B-VG.
- 7a. Decisions of the National Council on changes in national borders under Art. 3 paras 2 and 3 B-VG shall require the presence of at least half of the Members and a two-thirds majority of the votes cast (Art. 3 para 4 B-VG).<sup>20</sup>
8. Furthermore, a majority of two thirds of the votes cast shall be required in cases covered by §§ 44 (2), 49 (5 and 6), 53 (7) and 57 (5) of the present Federal Law.

(3) Elections shall be governed by the provisions of (1) above and § 87.

(4) Constitutional laws and constitutional provisions contained in simple laws as well as fundamental laws and fundamental provisions contained in simple federal laws shall be expressly designated as such.

(5) *Note: Cancelled by amendment BGBl. I No. 11/2010*<sup>21</sup>

**§ 83.** The President of the National Council shall, on the basis of the approved Official Records (§ 51), direct the execution and service of decisions taken by the National Council.

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18 As amended in BGBl. I No. 11/2010

19 As amended in BGBl. I No. 11/2010

20 As amended in BGBl. I No. 11/2010

21 As amended in BGBl. I No. 11/2010

**§ 84.** (1) If the National Council so decides or the majority of Members so demand, any bill adopted by the National Council shall be submitted to a referendum upon conclusion of the procedure pursuant to Art. 42 B-VG but before its authentication by the Federal President.

(2) A motion for such a decision by the National Council may be introduced in the form of a committee motion under § 27 (3) or in the form of a motion to add in the course of the second reading of the bill. The motion shall be put to the vote after the end of the third reading.

**§ 85.** If one third of the Members so demand, a partial amendment of the Federal Constitution shall be submitted to a referendum upon conclusion of the procedure pursuant to Art. 42 B-VG but before its authentication by the Federal President.

**§ 86.** (1) In pursuance of Art. 140 (1) B-VG, one third of the Members may demand that a Federal Law in toto or certain passages thereof be declared null and void by the Constitutional Court as being unconstitutional. The demand shall set forth in detail the objections speaking against the constitutionality of the Federal Law in question.

(2) Members who have made a demand in accordance with (1) above shall also appoint one or more authorised persons who shall represent them in the proceedings before the Constitutional Court.

**§ 87.** (1) Elections in the National Council shall constitute a separate item of business (§ 50 (2)). This provision notwithstanding, the election of a special committee for the purpose of preliminary deliberations on a bill may be moved before said bill is referred by the President or in the course of the first reading of a bill.

(2) As a rule elections shall take place by means of ballots and shall be decided by an absolute majority of the votes cast. Balloting shall be secret. The election of committees shall be governed by the provisions of §§ 30, 32 and 33.

(3) The President shall communicate nominations received in writing to the National Council; however, ballots bearing the names of other eligible candidates shall be equally valid.

(4) The President of the Court of Audit, the members of the Ombudsman's Office as well as the chairpersons of the Parliamentary Federal Army Commission under § 4 Defence Act shall be elected upon nomination by the Main Committee.<sup>22</sup>

(5) If no absolute majority of the valid votes cast is achieved during the first ballot, a second ballot shall be held. If the second ballot also fails to produce an absolute majority, there shall be a third ballot based on a short list. The candidates placed on the short list shall be those who have obtained the largest number of votes during the second ballot, and their number shall be twice that of the number of persons to be elected. If several candidates have received the same number of votes during the second ballot, the candidates to be shortlisted shall be determined by the drawing of lots. Should the third, short-listed, ballot also result in a tie, the decision shall again be by the drawing of lots.

(6) If none of the nominations receives the necessary majority in the first or second ballot, they may be withdrawn and replaced by a single list of candidates.

(7) If only one list of candidates is presented, the President may propose that it be voted on in accordance with § 66 (1 or 2). If, however, an objection is raised against this proposal, the election shall take place by secret ballot. The President and the Second and Third Presidents shall always be elected by secret ballot. The President may rule that a secret ballot be held if s/he has doubts about the result of an election held under § 66 (1 or 2).

**§ 88.** (1) In the case of elections by secret ballot the President shall direct in what form Members are to indicate their choice.

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22 As amended in BGBl. I No. 11/2010

(2) The election shall take place by the Members depositing their ballots in the voting box. For this purpose, Members shall be called by name and counted. Those not present when their names are counted shall not be allowed to deposit their ballots thereafter.

(3) If five Members so demand, voting booths shall be used for balloting. The ballot shall take place in the same way as indicated in (2) above, but the Parliamentary Administration shall arrange for each Member to be able, in the voting booth, to fill in the ballot and place it in the envelope without being observed by others. The envelopes and ballots shall be handed to the Members by Parliamentary Administration officials appointed for this purpose before they enter the booths; the envelopes shall be placed in the voting box immediately after the Member has left the voting booth.

(4) As soon as the President has declared the ballot closed, the staff members of the Parliamentary Administration appointed for the purpose shall, under the supervision of the Secretaries, count the votes and inform the President of the result. If the number of votes or, in the case covered by (3) above, the number of envelopes does not agree with the number of Members that have actually voted, the ballot shall be repeated if the discrepancy is deemed to be likely to affect the result.

(5) Ballots that do not clearly show the intention of the voter shall be deemed invalid.

(6) The President shall announce the result of the election.

### XIII. Questions

**§ 89.** (1) Every Member shall have the right to address written questions to the President of the National Council and the Chairpersons of Committees.

(2) The person so questioned shall reply in writing. If s/he is not in a position to answer the question, his/her reply shall indicate the reason.

**§ 90.** The National Council shall have the right to scrutinise the activities of the Federal Government, to question its members on all matters of execution and to demand all relevant information from them. This right pertains in particular to acts of government and matters of public administration or administrative acts on the part of the Federal Government in its capacity of holder of private rights.

**§ 91.** (1) Questions which a Member wishes to address to the Federal Government or one of its members within a session shall be submitted to the President in writing with at least four additional copies. They shall bear the personal signatures of at least five Members including the questioner and shall be communicated to the person questioned by the Parliamentary Administration.

(2) Questioners may withdraw their questions in writing at any time before receipt by the President of the answer. The President shall communicate the withdrawal of the question to the National Council at its next following sitting and shall inform the government member accordingly.

(3) Questions shall be read only on the President's order.

(4) The person questioned shall answer the question(s) orally or in writing within two months of the question(s) having been received by the President. If s/he is not in a position to answer the question, his/her reply shall indicate the reason. Each written answer shall be accompanied by at least four additional copies. Oral answers shall be governed, *mutatis mutandis*, by the provisions of §§ 19 (2) and 81.

**§ 91a.** (1) Questions which a Member wishes to address to the President of the Court of Audit within a session shall be submitted to the President. The right to question shall pertain to matters within the jurisdiction of the Court of Audit to the extent that they concern the management of the budget in accordance with the Federal Budget Act the service prerogative under Art. 21 (3) B-VG and the organisation of the Court of Audit under § 26 (2) Court of Audit Act.

(2) All other matters shall be governed, *mutatis mutandis*, by the provisions of § 91 above.

**§ 92.** (1) Before entry upon the agenda, five Members may demand that a debate under §§ 57a and 57b be held on the written answer to a question under § 91(1). Members belonging to the same Parliamentary Group shall call for such a debate only once in every week of sittings. If such a demand is made by Members belonging to different Parliamentary Groups, the demand shall be deemed to have been made on behalf of the Group to which the first sponsor belongs. If the first sponsor belongs to no Parliamentary Group, this provision shall hold with regard to the second sponsor and so forth.

(2) Demands under (1) above can only be made in regard of such written answers to a question as have been received by the National Council within the last two months.

(3) In the course of said debate the only motion allowed shall be that the National Council take note or not take note of the answer. The motion may be accompanied by a short statement of reasons.

**§ 93.** (1) Before entry upon the agenda, five Members may demand that, after the agenda has been exhausted but not later than 3 p.m. and not earlier than three hours after entry upon

the agenda, the motivation for a written question to a member of the Federal Government, to be introduced at the same time, be presented orally by the questioner and followed by a debate on the issue in question. However, no Member shall sponsor such a demand more often than once within each year.

(2) In addition, each Parliamentary Group may in each year make another four such demands under (1) above; such demands shall contain a reference to the legal provision in question and shall be signed by five Members of the Parliamentary Group making the demand. The signatures in support of such demand shall not be counted for the purpose of the restriction under (1) above.

(3) At the request of five Members the National Council may decide, without debate, before entry upon the agenda that, after the agenda has been exhausted but not later than 3 p.m. and not earlier than three hours after entry upon the agenda, the motivation for a written question to a member of the Federal Government be presented orally by the questioner and followed by a debate on the issue in question. An urgent question so decided shall not be subject to the restriction under § 57b (1).

(4) Following the presentation of the motivation for the question and before the debate is opened, the member of the Federal Government so questioned or the State Secretary entitled to speak under § 19 (1) shall deliver his/her opinion on the issue in hand; alternatively, an oral answer may be given under § 91(4). The statement or oral answer should not exceed 20 minutes.

(5) The Member presenting the motivation shall have a speaking time of 20 minutes, each Member taking the floor in the subsequent debate ten minutes, and each Parliamentary Group a total speaking time of 25 minutes.

(6) The only motions that may be introduced during the debate are draft resolutions. The President may defer voting on such motions to the beginning of the next sitting.

**§ 94.** (1) During the sittings of the National Council every Member may put brief oral questions to members of the Federal Government.

(2) The member of the Federal Government so questioned or the State Secretary entitled to speak under § 19 (1) shall answer said questions orally during the sitting in which they are asked. If s/he is not in a position to answer the question, his/her reply shall indicate the reason.

(3) No Member shall ask more than four questions during the Question Times of each month. Oral questions may be withdrawn at any time.

(4) Unless a Debate on Matters of Topical Interest has been scheduled, each sitting of the National Council shall, as a rule, commence with Question Time; exceptions are determined by the President after consultation with the President's Conference. Question Time shall not normally exceed one hour, but the President may exceptionally allow more time.

(5) If a large number of questions are put, a special sitting of the National Council may be scheduled for their treatment. If a further sitting of the National Council has been envisaged for the same day, brief debates pursuant to § 57a and the deliberation of Urgent Questions or Urgent Motions shall be out of order.

(6) If a sitting which is to commence with Question Time cannot start at the appointed hour, the President may appoint a certain hour for the inception of Question Time, which shall be complied with even if the previous meeting has not yet been terminated.

**§ 95.** (1) Short questions under § 90 shall be in order. Each question shall be confined to one concrete question and must not be divided into several parts.

(2) Questions that do not comply with these requirements shall be disallowed by the President.

(3) Questions shall be tabled by way of the Parliamentary Administration in quintuplicate at the latest 48 hours - not counting Saturdays, Sundays and legal holidays - before the sitting in which they are to be called up. The Parliamentary Administration shall inform the person questioned immediately of the questions tabled.

(4) After consultation of the members of the President's Conference the President shall determine the order in which the questions are to be called up during Question Time, taking into consideration ministerial responsibility and the alternation between the Parliamentary Groups and the points of view expressed.

(5) The questions envisaged to be called up shall be copied and distributed to all Members before the sitting.<sup>23</sup>

**§ 96.** (1) The President shall call up the questions in the order in which they have been arranged. The Member asking the question shall have a speaking time of one minute. Questions shall not be called up if the questioner is absent.<sup>24</sup>

(2) Answers shall not exceed two minutes in duration.<sup>25</sup>

(3) After a question has been answered, the questioner shall have the right to ask one supplementary question. Thereafter, other Members may ask supplementary questions, and the floor shall as a rule be given to Members of each of the Parliamentary Groups other than the one to which the questioner belongs. Members who put supplementary questions shall also have a speaking time of one minute. Members who do belong to a Parliamentary Group shall be allowed appropriate time. If several Members ask for the floor simultaneously to put a supplementary question, the President shall determine the order in which they are given the floor in compliance with the principles set out in § 60 para 3.<sup>26</sup>

(4) Supplementary questions must be directly related to the original question and comply with the provisions of § 95 para 1.<sup>27</sup>

**§ 97.** (1) Unless a question has been called up during Question Time within four weeks of its receipt by the President, the questioner may within a further period of eight days declare that s/he wishes to receive an answer in writing.

(2) The written answer shall be given within one month of said declaration by the questioner under (1) above. If the person questioned is not in a position to answer the question, his/her written reply shall indicate the reason. Each written answer shall be accompanied by at least four copies.

(3) The President shall announce receipt of the written answer at the sitting of the National Council following receipt. S/he shall order the answer to be copied and distributed to Members, seeing to it that the Members are also cognizant of the wording of the oral question concerned.

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23 As amended in BGBl. I No. 31/2009

24 As amended in BGBl. I No. 31/2009

25 As amended in BGBl. I No. 31/2009

26 As amended in BGBl. I No. 31/2009

27 As amended in BGBl. I No. 31/2009

### **XIIIa. Debate on Matters of Topical Interest**

**§ 97a.** (1) The deliberations in plenary of a week of sittings shall commence with a Debate on Matters of Topical Interest if five Members so require in writing at least 48 hours previously - not counting Saturdays, Sundays and legal holidays - and at the same time indicate the subject to be discussed. If there are several requests, the President shall select the topic to be discussed, bearing in mind the principles set out in § 60 (3).

(2) The Parliamentary Administration shall inform the members of the Federal Government.

(3) The Debate on Matters of Topical Interest shall serve to discuss subjects of general topical interest that regard the executive function of the Federal Government; no motions may be made or decisions taken.

(4) No Question Hour shall take place in sittings that commence with a Debate on Matters of Topical Interest.

(5) The Debate on Matters of Topical Interest shall, as a rule, last between 60 and 70 minutes and be organised in such a way that no more than 50 minutes of that time are allowed for Members' contributions. The President shall have the right to close the Debate on Matters of Topical Interest after the lapse of 90 minutes.

(6) As a rule, the first speaker shall be the first signatory of the proposal in accordance with (1) above, who shall have a speaking time of 10 minutes. The competent member of the Federal Government or the State Secretary entitled to speak under § 19 (1) shall have the duty to make an introductory statement, which shall not exceed 10 minutes. The speaking time for all other speakers during the Debate on Matters of Topical Interest shall not be more than five minutes, and as a rule two speakers for each Parliamentary Group shall be given the floor. The provisions concerning factual corrections shall not apply.

## XIV. Parliamentary Hearings and Commissions of Enquiry

**§ 98.** (1) The Main Committee of the National Council may upon a motion tabled by one of its members decide to hold a parliamentary hearing (i.e. to solicit written statements and to hear experts and other witnesses subject to the provisions of § 40 (1 and 3)) on matters with regard to which legislation is reserved to the federal level. In deliberating on such a motion every Member who is entitled to vote in the sitting shall have the right to offer amendments. The Main Committee may at any time modify a decision to hold a hearing subject to compliance with the requirements of § 42 (2) regarding modification of decisions.

(2) The motion to hold a hearing under (1) above shall be submitted to the President in writing and shall at a minimum contain indications of the subject matter, the participants desired to be present, and the day of the hearing.

(3) If in the course of a meeting of the Main Committee at least one third of the Members entitled to vote require that such a motion be dealt with, the President shall enter it on the agenda of the following sitting of the Main Committee. In the absence of such a request a motion of this nature shall in any case be dealt with within six months of it being tabled.

(4) In the same way, the Main Committee may set up a Commission of Enquiry to prepare decisions on comprehensive and significant matters and may, in so doing, set a date for reporting. A motion to this effect under (2) above shall at a minimum contain detailed instructions for the Commission and indicate its composition. The Commission of Enquiry shall conclude its work with the presentation of a report to the National Council which reflects the various opinions expressed.

(5) The Commission of Enquiry may decide to admit the general public to parts of its sittings under § 28b (2). Sound, film and video recordings as well as the taking of photographs shall be permitted.

(6) The total number of Commissions of Enquiry that have not yet submitted their concluding report shall at no time exceed three.

(7) The activities of the Commissions of Enquiry shall be subject, *mutatis mutandis*, to the procedural provisions of the present Federal Law concerning the work of committees.

**§ 98a.** (1) Unless the Main Committee decides otherwise upon the President's proposal, the hearing shall be chaired by the President of the National Council. The chairperson's responsibilities in chairing a hearing shall, *mutatis mutandis*, be those set out in § 13 (2 and 3).

(2) Hearings shall be open to the media unless the Main Committee decides otherwise when taking the decision to hold the hearing. In any case, the meetings shall be open to those persons who are entitled to be present at the sittings of committees of the National Council. The President shall decide on whether representatives of the media can be admitted subject to the availability of sufficient room.

(3) Furthermore, the provisions of §§ 41 (5), 58, 101 and 102 shall apply, *mutatis mutandis*, with regard to the recognition of participants who have asked for the floor, factual corrections as well as the call to speak to the point and the call to order.

(4) Unless the Members participating in the hearing decide otherwise with respect to parts of the deliberations, stenographic records of the deliberations shall be made and published in print. Any further publication concerning the hearing shall be at the President's discretion.

(5) The Members participating in the hearing may decide to submit the stenographic records thereof to the National Council as an item of business.

## **XV. Audit Instructions to the Court of Audit**

**§ 99.** (1) The National Council may, upon a private Members' motion (§§ 26 and 27), decide to ask the Court of Audit to carry out audits of special aspects of the administration of public funds.

(2) Such audits shall be carried out without a decision of the National Council if a motion tabled under § 26 and seconded in writing by at least 20 Members refers to a special event in connection with a matter of the federal administration of public funds that falls within the jurisdiction of the Court of Audit (Art. 122 (1) B-VG).

(3) No further such motion may be tabled as long as three audits of the administration of public funds under (2) above are pending. In addition, no Member may second such a motion as long as two such audits are pending which were instituted with the seconds of members of the Parliamentary Group to which s/he belongs. An audit shall be deemed pending up to the time the Court of Audit presents its report to the National Council.

(4) The President shall communicate any motion meeting the conditions stipulated in (2) and (3) above to the National Council at the end of the sitting.

(5) The President shall without delay communicate to the Court of Audit any decision under (1) or demand under (2) above.

(6) The Court of Audit shall report to the National Council on its audit under (1) or (2) above.

## **XVI. Parliamentary Petitions and Parliamentary Citizens' Initiatives**

**§ 100.** (1) Any matter submitted to the National Council shall only be dealt with if the submission is made in writing, if it pertains to a matter within the jurisdiction of the legislative or executive branches at the federal level and if it has been

1. filed as a petition on the part of a Member of the National Council or
2. submitted as a citizens' initiative supported by at least 500 Austrian citizens who have completed their 16th year at the time they support it.<sup>28</sup>

(2) Support of a citizens' initiative shall be by the supporter giving, in his/her own hand, his/her name, address, date of birth and date of signature and affixing his/her signature thereto. The first signatory of a citizens' initiative must be registered as a voter.

(3) A citizens' initiative shall be filed with the Parliamentary Administration by the first signatory, who shall produce evidence of his/her regular residence. The Parliamentary Administration shall thereupon verify whether the first signatory is registered as a voter; the President may order compliance with the requirements for supporters to be examined in a form s/he deems appropriate.

(4) The President shall refer petitions and citizens' initiatives complying with the conditions set forth in (1) to (3) above to the Committee for Petitions and Citizens' Initiatives. However, when submitting a petition, the Member of the National Council doing so may propose that the Committee for Petitions and Citizens' Initiatives refer the same to another committee.

(5) Petitions and citizens' initiatives shall be made available for inspection in the Parliamentary Administration and distributed to the members and substitute members of the Committee to which they are referred. The President may, after consultation of the members of the President's Conference, dispense with the requirement of copies being distributed either wholly or in part if such action appears to be justified for reasons of economy and utility. The President may, however, also order the text to be distributed to all Members if s/he feels that such action is required for compelling reasons.

**§ 100a.** Procedure in the Committee for Petitions and Citizens' Initiatives shall be governed, subject to the provisions below, by the provisions concerning the establishment of committees, the transaction of business in their sittings and the form of reporting.

**§ 100b.** (1) The Committee for Petitions and Citizens' Initiatives shall discuss incoming business at each of its sittings; its Chairperson may convene a special sitting for this purpose. During this phase of its work, the Committee may

1. decide
  - a) to refuse to deal with the matter in hand, if it feels that it is obviously unsuitable for further consideration, or
  - b) to transfer the matter to the Ombudsman's Office for further consideration, or
  - c) to ask the President to refer the matter to a different committee,and
2. take decisions under (2) below or § 40 (1).

In cases mentioned under (1a ) and (1b) above, the Committee shall report to the National Council in accordance with § 100c (3.3).

(2) In the course of its preliminary deliberations, the Committee for Petitions and Citizens' Initiatives may

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28 As amended in BGBl. I No. 31/2009

1. decide to obtain, through the President, opinions of the Federal Government, of some of its members or of the Ombudsman's Office and, if it chooses, to set a deadline for receipt of such opinion(s), and
2. decide whether the first signatory, the members of the Ombudsman's Office or informed representatives of members of the Federal Government or the Ombudsman's Office may participate in the deliberations, or in which parts thereof they may do so and take the floor in the debate.

**§ 100c.** (1) At the end of the deliberations, the Committee for Petitions and Citizens' Initiatives may decide to ask the President to refer the subject matter - and possibly a recommendation of the Committee as to the form and content of the ultimate decision - to another committee.

(2) As regards its report to the National Council, the Committee for Petitions and Citizens' Initiatives may decide either to report separately on a single petition or citizens' initiative or to present a joint report on several of them. Private Members' motions under § 27 shall not be in order.

(3) The report under (2) above shall in every case contain a motion addressed to the National Council, which may be

1. to transfer the subject matter to the Federal Government or some of its members for appropriate action, or
2. to transfer the subject matter to the Ombudsman's Office for further action, or
3. to dispose of the subject matter by noting the Committee report.

(4) Deliberations before the Plenary shall be governed by the General Provisions concerning the Consideration of Business in Sitzings of the National Council subject to the provisions that amendments do not go beyond the motions set forth in (3, 1-3) above and that the motions contained in a joint report under (2) above are voted on jointly unless there are any amendments. Amendments shall not be in order in respect of reports under § 100b (1, 1a and 1b).

**§ 100d.** The Parliamentary Administration shall provide information on the formal requirements regarding the introduction of citizens' initiatives; it shall inform the first signatory (§ 100 (2 and 3)) at his/her request on the status of the parliamentary process while the matter is still pending or on the manner in which it has been disposed of.

## XVII. Order in the House

**§ 101.** (1) If a Member roams wide of a question before the National Council, the President may require him/her to speak to the point.

(2) After the third admonition, the President may withdraw a Member's right to speak.

**§ 102.** (1) If a person who is entitled to participate in the deliberations of the National Council violates the decorum or dignity of the National Council, uses abusive language or does not comply with the President's orders, the President shall call him/her to order.

(2) The President shall in such a case have the right to interrupt the speaker or to withdraw his/her right to speak.

(3) If a Member has been called to order repeatedly at short intervals, the President may at the same time rule that s/he will not be recognised for the rest of the sitting.

**§ 103.** (1) Persons entitled to participate in the deliberations of the National Council may request the President to require a Member to speak to the question or to call him/her to order. The president shall rule on this request without recourse to the National Council.

(2) If a person entitled to participate in the proceedings of the National Council has behaved in a way that would have made him/her liable to a call to order, the President may call him/her to order ex post facto at the end of the sitting or at the beginning of the next sitting, and any person entitled to participate in the deliberations may request the President to.

**§ 104.** If a speaker is interrupted by the President s/he shall cease to speak immediately, failing which the President may withdraw his/her right to speak.

**§ 105.** The only official language of the National Council and its committees shall be German.

**§ 106.** Requests of one third of the members of the Immunities Committee that a decision of the National Council be sought under § 10 (3), requests to convene an extraordinary session under § 46 (2), requests to hold a referendum under §§ 84 (1) or 85, and requests for the repeal of a Federal Law by the Constitutions Court under § 86 shall be made in writing to the President for further action in compliance with the Constitution and shall bear the personal signatures of the Members so requiring.

**§ 107.** In cases under §§ 2 (1,2), 10 (4), 24 (2), 26 (7), 32e (4), 69 (4), 79 (3) and 92 (2), the running of any times set shall be suspended throughout the time during which the National Council is in recess. This provision shall also hold in respect of cases covered by § 7 (1) of the Incompatibility Law of 1983, BGBl. No. 330.

## XVIII. Concluding Provisions

**§ 108.** This Federal Law may only be amended on the basis of private Member's motions (§ 26). Such motions shall be referred to committee after the first reading. The committee shall report in writing, whereupon the second reading shall take place in the National Council, to be followed by the third reading 24 hours after the second one at the earliest. For the rest, the provisions of § 82 (2,2) shall hold.

**§ 109.** (1) This Federal Law shall, except for § 86, enter into force on October 1, 1975; § 86 shall enter into force on July 1, 1976.

(2) As this Federal Law enters into force, it shall replace the Federal Law of July 6, 1961, BGBl. No. 178, governing the Rules of Procedure of the National Council.

(3) § 8 para 3, § 21 para 1a, § 28b paras 2 - 5, § 95 para 5, § 96 paras 1 - 4 and § 100 para 1 (2), as amended by Federal Law BGBl. I No. 31/2009, shall enter into force on 1 April, 2009.<sup>29</sup>

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<sup>29</sup> As amended in BGBl. I No. 31/2009

# **Rules of Procedure for Parliamentary Investigating Committees**

**Annex to the Federal Law on the Rules of  
Procedure of the National Council of 1975**

**Promulgation:**

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Annex to the Federal Law on the Rules of Procedure of the  
National Council of 1975

# Rules of Procedure for Parliamentary Investigating Committees

## Chapter 1

### Order to Hear Evidence and Preparation of Sittings

#### I. Order to Hear Evidence

**§ 1.** The Investigating Committee shall obtain the evidence required for executing an order to investigate on the basis of decisions to hear evidence.

**§ 2.** (1) The decisions to hear evidence shall specify in detail the facts with regard to which evidence is to be obtained and the instruments to be used in obtaining evidence.

(2) The instruments to be used in obtaining evidence may include whatever may help to further the investigation within the limits of the order to investigate, to the exclusion, however, of such evidence as has been obtained by punishable acts or any other circumvention of other legal provisions.

(3) Decisions to hear evidence may be added to or modified by the Investigating Committee in accordance with § 42 (2) of the Rules of Procedure of the National Council (hereinafter referred to as RP).

#### II. Summonses of Witnesses or Experts

**§ 3.** (1) Summonses of witnesses or expert witnesses shall be executed, in response to a decision of the Investigating Committee, by the President of the National Council or, on his/her behalf, the Office of the Director of Parliament.

(2) Summonses shall identify the person summoned, the subject of investigation and, within the scope of this subject, the specific issues on which the person will be heard, as well as the time and place of the hearing and shall contain a reference to the legal provisions governing reimbursement of costs (§ 40 (3) RP and para. (4) below) as well as the consequences to be incurred in case of non-compliance with the summons.

(3) If a person summoned fails to comply with said summons without due cause, the Investigating Committee may ask the Court identified in §§ 21f. to impose an administrative fine and issue a second summons warning the person summoned that the Investigating Committee could, in the case of repeated non-compliance, issue a warrant to have him/her brought before the Committee. Should the expert or other witness again fail to comply without due cause, the

Investigating Committee may request another administrative fine to be imposed and order the witness/expert to be brought before the Committee by the competent law-enforcement agency.

(4) Reimbursement of costs shall be governed by § 40 (3) RP. The expert/witness shall also be reimbursed for any loss of earnings for which adequate proof can be obtained.

(5) If the summons is for a civil servant, the individual's superior administrative authority shall be informed of both the summons and the subject on which the individual is to be heard.

(6) Every witness may require that a person in his/her confidence be allowed to be present during the hearing. This shall also hold in cases where the general public is excluded under § 4 (2).

(7) Witnesses and experts may be invited to testify in writing if they cannot be reasonably expected to appear before the Committee or if their appearance would result in costs of prohibitive proportions.

## Chapter 2

### Sittings and Taking of Evidence

#### III. Publicity of Sittings

**§ 4.** (1) When the Committee is hearing experts and other witnesses and expert witnesses, the President shall, subject to the availability of sufficient room, admit representatives of the media; in so doing, the President may take recourse to the Association of Parliamentary Editors and other professional organisations of journalists. Television and sound radio recordings and transmissions as well as the shooting of films and photographs are not permitted.

(2) The general public may, upon decision of the Investigating Committee, be excluded if overwhelming public or individual interests warranting protection or the protection of industrial or business secrets so require or if exclusion of the general public appears to be necessary in the interest of truthful testimony.

(3) The testimony of civil servants heard in accordance with § 6 below shall always be heard in camera.

(4) Deliberations of the Investigating Committee shall not be open to the public.

#### IV. Evidence obtained by the Questioning of Witnesses

##### 1. Duty to Testify

**§ 5.** The following persons must not be subjected to a hearing:

1. Persons unable to communicate what they have seen or otherwise learned or who were unable, at the time to which their testimony is supposed to relate, to perceive the fact about which the evidence is to be taken;
2. Members of the clergy in regard to what has been confided to them in the course of confession or under the seal of official secrecy in their capacity as clergymen.

**§ 6.** Civil servants heard as witnesses cannot plead being bound to official secrecy. If a civil servant's administrative authority which is informed of the summons under § 3 (5) above considers that the testimony of the civil servant in question should be treated as confidential, it shall so inform the Investigating Committee. In such a case the Investigating Committee can decide by a two-thirds majority that, on account of the importance of his testimony, the civil servant in question has to testify irrespective of his being committed to official secrecy.

**§ 7.** (1) A witness may refuse to testify

1. on matters that concern his/her private life or that of one of his/her relatives (§ 72 Penal Code) or that would expose him/her or said relative to the jeopardy of penal prosecution;
2. regarding questions the reply to which might expose the witness or a person referred to in 1. above to a direct and significant pecuniary disadvantage;
3. on facts about which a witness could not bear testimony without violating a legally recognised obligation to observe secrecy, unless the witness has been validly released from his/her obligation to observe secrecy or s/he has been ordered to testify as a civil servant under § 6 above;

4. regarding information that s/he has obtained in his/her capacity as defence counsel or other legal counsel;
5. regarding questions which the witness could not answer without disclosing a trade or business secret;
6. on the question in what way the witness has exercised his/her right to vote in an election or vote declared by law to be by secret ballot.

(2) In the cases listed in 1. and 2. above, the witness may, with regard to the relative(s) referred to, refuse to testify even if the marital status on which the relationship is grounded is no longer in existence.

**§ 8.** A witness cannot refuse to testify, on grounds that s/he might suffer a pecuniary disadvantage, about the conclusion and object of a legal transaction regarding the conclusion of which s/he has been a witness.

**§ 9.** (1) A witness who wishes to refuse to testify shall state the grounds for his/her refusal in the course of the sitting at which s/he is to be heard or in his/her written response to the summons (§ 3 (7)) and, at the request of a member of the Committee, furnish adequate proof of the validity of his/her grounds.

(2) The Committee shall be the judge of the justification of the refusal. Should it conclude that such refusal is not justified, the Committee may petition the court (§§21f.) to impose a penalty for contempt.

## **2. Questioning and the Duty to Tell the Truth**

**§ 10.** The Investigating Committee shall, with due consideration of the evidence to be obtained under the order to hear evidence, establish a timetable for the hearing of evidence. Departures from said timetable shall only be admitted for compelling reasons.

**§ 11.** (1) Prior to the hearing of the witnesses or their being invited to testify in writing, witnesses shall be informed of the grounds on which they may refuse to testify (§ 7). They shall also be reminded of their duty to tell the truth and of the consequences of false testimony.

(2) At the witness's request, s/he shall be given an opportunity to give a coherent presentation of the facts that form the object of his/her testimony prior to being questioned.

(3) Witnesses shall be heard individually in the absence of witnesses to be heard later. The order in which witnesses are to be heard shall be determined by the Chairperson of the Investigating Committee with due consideration of the subject on which evidence is to be heard, the timetable for the hearing of witnesses and the time at which the witness in question is to be heard as indicated in the summons served on said witness. If at least one third of the members of the Committee so request, the Chairperson shall put the issue to the Committee for decision.

(4) Witnesses giving contradictory evidence may be confronted with one another. All members of the Committee shall have the right to demonstrate contradictions in the respective testimonies and to ask additional questions for clarification of said contradictions.

**§ 12.** (1) Expert witnesses and other witnesses shall first be questioned by the Chairperson of the Investigating Committee. Prior to being heard they shall be reminded of their duty to tell the truth and of the penal consequences of false testimony. This reminder shall be noted in the Official Record. The Chairperson shall start by eliciting the witness's personal data. Subsequently, s/he may ask questions of substance. Then s/he shall give the floor to the other members of the Committee in the order in which they have asked for recognition. If several members ask for the floor at the same time, the Chairperson shall recognise them with due consideration the numerical strength of the respective parliamentary groups, and taking turns between them. For important reasons, and in particular in the interest of saving time, eliciting the truth or clearing up contradictions, the Chairperson may, if requested by a member or, if no objection is raised, of his/her own accord, recognise members out of turn.

(2) If a witness is accompanied by a person in his/her confidence, that person shall also be reminded of the penal consequences that false testimony would have for him/her as an interested party. This reminder shall also be noted in the Official Record.

**§ 13.** (1) If a question is not germane to the subject indicated in the decision to hear evidence or if the Chairperson's ruling to admit or not to admit a question is contested, the issue shall, upon motion of a member, be decided by the Committee after hearing Procedural Adviser but without further debate.

(2) Witnesses shall not be asked vague, misleading, equivocal, incriminating, offensive or insinuating questions. In particular, all questions shall be deemed inadmissible which suggest that a fact not admitted by witness has already been admitted.

(3) Questions suggesting to the witness circumstances whose existence is to be established by witness's answer may only be put if the information cannot be elicited otherwise.

### **3. Person in the Witness's Confidence**

**§ 14.** (1) Every witness may be accompanied to the hearing before the Investigating Committee by a person in his/her confidence. That person shall have the right to advise the witness but shall not have the right to make statements before the Committee or to reply instead of the witness.

(2) The following persons may be excluded as persons in the witness's confidence:

- (a) any person who is likely to be summoned as a witness in the hearings before the Investigating Committee;
- (b) any person who might influence a witness in making a free and complete statement;
- (c) any person who violates the provisions of (1) above.

## **V. Evidence given by Expert Witnesses**

### **1. Appointment of Expert Witnesses**

**§ 15.** If evidence has to be obtained from experts, the Investigating Committee may appoint one or more such expert witnesses. Unless special circumstances call for a decision to the contrary, appointments shall be made from among the experts officially appointed to testify on matters of the nature of the subject at issue.

**§ 16.** (1) Upon motion by a Committee member experts may be challenged if it can be proved to the satisfaction of the Committee that certain circumstances are apt to throw doubt on the expertise or impartiality of said expert.

(2) Such challenges shall only be made before the expert has started to give evidence before the Investigating Committee.

(3) The Investigating Committee shall decide by resolution whether or not to allow the challenge.

**§ 17.** (1) An appointment as expert shall be accepted by whoever has been officially appointed as expert regarding matters of the nature of the subject at issue or who publicly exercises for profit, or who is publicly employed or authorised to exercise, the profession or trade the expertise of which is a prerequisite for testifying as an expert on the subject at issue.

(2) An expert may ask to be released from his/her appointment for the same reasons as can be cited by witnesses who wish to refuse to testify.

(3) § 9 shall apply mutatis mutandis.

(4) The expert witness shall receive adequate remuneration for his/her services.

**§ 18.** If questions arise an answer to which may be of significance for the expert opinion to be rendered, the expert may request, through the Chairperson, that such questions be clarified and any contradictions resolved, if necessary by obtaining information from witnesses.

## VI. Procedural Adviser

**§ 19.** (1) In the interest of the protection of witnesses' fundamental and personality rights and of ensuring fair proceedings, the Chairperson shall be assisted by a Procedural Adviser.

(2) Persons eligible to be appointed as Procedural Advisers shall be any person who can be expected, on the basis of his/her professional skills and experience, particularly in the administration of justice, to watch over compliance with the Rules of Procedure independently of the political groups represented in the Investigating Committee and to exercise his/her office in the interest of the protection of fundamental and personality rights.

(3) The Procedural Adviser shall be elected by a two-thirds majority from a list of candidates nominated by the parliamentary groups. If a candidate fails to command a two-thirds majority in the first ballot, there shall be a second ballot to decide between the candidates with the most votes. In the second ballot a simple majority shall be sufficient for appointment.

(4) The Procedural Adviser shall receive adequate remuneration for his/her services.

**§ 20.** (1) The Procedural Adviser shall warn the Chairperson of any violations of the Rules of Procedure or impairment of a witness's fundamental or personality rights. Witnesses and persons in their confidence may address themselves to the Procedural Adviser to assert such rights.

(2) If the Chairperson fails to comply with the Procedural Adviser's remonstrance under (1) above, every member of the Investigating Committee shall have the right to ask for a decision by the Committee. In the same way, every member of the Committee and the Procedural Adviser shall have the right to demand a consultation to clarify the matter.

## VII. Coercive Measures

**§ 21.** The Investigating Committee shall have at its disposal no coercive measures other than the power to have a witness brought before the Committee under a warrant if s/he fails to comply with a summons (§ 3 (3)) and to impose administrative fines and penalties for contempt if the witness refuses to testify without justification. In particular, the Committee shall not have the power to order searches or seizures.

**§ 22.** (1) If the Investigating Committee requests that an administrative fine or penalty for contempt be imposed, such request, and the reasons for the request, shall be filed with the Bezirksgericht Innere Stadt Wien (the District Court for Central Vienna).

(2) On the basis of the request made by the Investigating Committee, the Court shall impose the requested administrative fine or penalty for contempt under the provisions of the Code of Criminal Procedure (§§ 159ff.) as applied *mutatis mutandis*. The provisions of the Code of Criminal Procedure shall also apply with regard to reasonable excuse and grounds for appeal.

## VIII. Records

**§ 23.** (1) Proceedings in the sittings of the Investigating Committee shall be duly recorded.

(2) The hearing of evidence shall be recorded verbatim. Tape recorders or similar apparatus may be used for the purpose of establishing the verbatim records.

(3) The Investigating Committee shall decide on the manner in which its deliberations are recorded.

(4) The transcript of the recording shall, upon request, be made available to the expert or other witness for inspection. Said witness may raise objections against mistakes in the record within three days of inspection. The Committee shall have the right to decide on any objections raised.

## IX. Confidentiality

**§ 24.** (1) The content of deliberations of the Investigating Committee and the content of statements made by witnesses in camera shall be confidential. These are governed, mutatis mutandis, by the confidentiality provisions of the Law on the Rules of Procedure of the National Council (§ 37 RP). The President shall swear the members of the Investigating Committee and the Procedural Adviser to secrecy regarding statements made by witnesses in camera. Regarding the attendance at in camera sittings of other persons involved in the proceedings of the Investigating Committee, § 32d (5) RP shall apply; the decision to admit such persons may be taken for the entire duration of the activity of the Investigating Committee.

(2) Records of sittings in camera shall only be accessible to the members of the Investigating Committee. The President of the National Council shall provide for the safekeeping of such records.

(3) Documents made available by public offices (§ 25 below) may not be published. Prior to making such documents available to the members of the Investigating Committee the President may have the individual copies marked in such a way as to ensure that confidentiality of said documents is respected.

## X. Judicial Assistance and Production of Documents

**§ 25.** (1) Courts of justice and all other authorities shall comply with letters of request on the part of Investigating Committees asking them to take evidence within the substantive jurisdiction of the Investigating Committee. In so doing, the foregoing provisions shall be respected.

(2) Upon request, all public offices shall produce their documentation.

## Chapter 3

### Reporting

**§ 26.** (1) The Investigating Committee shall report to the National Council on the basis of the evidence taken. The provisions of the Law on the Rules of Procedure of the National Council concerning the reports of Committees shall apply *mutatis mutandis*.

(2) The Investigating Committee's report shall contain a description of the proceedings, state the evidence taken, the facts ascertained and, where possible, an evaluation of the evidence, and present the result of the investigation.

(3) The Investigating Committee's report may also contain recommendations.

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