Standing Orders of the Austrian Ombudsman Board (2009)

Organisation of the Ombudsman Board

**Article 1** (1) The Ombudsman Board consists of three members, one of whom acts as chairperson. The chair of the Ombudsman Board shall rotate annually in the order defined in Article 148g para 3 of the Austrian Constitutional Act [Bundes-Verfassungsgesetz/B-VG].

(2) The area of responsibility of the members of the Ombudsman Board shall be determined on the basis of the Rules of Business Allocation including the tasks to be performed independently by the chairperson or the relevant members of the Ombudsman Board (areas of responsibility). Any tasks which are not assigned to members of the Ombudsman Board by the Rules of Business Allocation for independent discharging, in particular the matters listed in Article 8 of these Standing Orders, shall be subject to joint resolutions.

(3) Notwithstanding their responsibility the chairperson of the Ombudsman Board and any member of the Ombudsman Board may assign specific current tasks as defined in Article 4 para 1 of the Austrian Ombudsman Act [Volksanwaltschaftsgesetz] to the office of the Ombudsman Board for independent discharging while maintaining their authority to give instructions. A decision to this effect shall be taken by joint resolution and notified to the staff of the office of the Ombudsman Board.

(4) Every member of the Ombudsman Board has been or shall be provided with the required number of staff to discharge the tasks arising in his/her area of responsibility. All members shall decide on the assignment of staff of the Ombudsman Board to an area of responsibility upon motion of any member of the Ombudsman Board. Such a resolution shall require the unanimity of the members of the Ombudsman Board.

(5) Notwithstanding the regulations of Article 148h paras 1 and 2 B-VG every member of the Ombudsman Board shall directly instruct and supervise the staff assigned to him/her.

(6) Notwithstanding his/her responsibility every member of the Ombudsman Board may appoint a staff member head of his/her area of responsibility (head of area of responsibility). Appointment of a deputy shall be admissible. The head of area of responsibility (deputy) shall be a graduate of law. Such an appointment may be revoked at any time. The volume of the tasks to be discharged subsequently on behalf of the member of the Ombudsman Board shall be determined by the member of the Ombudsman Board with respect to his/her area of responsibility and may be changed by him/her at any time. In this respect, implementation of the principal decisions of the member of the Ombudsman Board as well as the related co-ordination and supervision of work shall be especially considered. Unless otherwise expressly provided, management of the area of responsibility shall also include management of the secretariat of the member of the Ombudsman Board and discharge of the duties in connection with the office of the member of the Ombudsman Board.

(7) The head of area of responsibility of the chairperson shall manage the administration and report directly to and be subject to direct supervision by the chairperson. His/her deputy shall be the heads of the areas of responsibility of the members of the Ombudsman Board in the order of the chair as defined in Article 148g para 3 B-VG.

(8) The personal designations used in these Standing Orders may be used for female and male members of the office of the Ombudsman Board and for staff of the Ombudsman Board in the form that expresses the gender of the officer.
Convening of Meetings of the Ombudsman Board

**Article 2** (1) The chairperson shall invite the members of the Ombudsman Board to a meeting at least twelve times a year by giving two weeks’ notice and advising the items on the agenda. In addition, the chairperson may convene a meeting at any time if s/he considers this to be necessary.

(2) The chairperson shall also convene a meeting upon request of any member of the Ombudsman Board. In that case the meeting shall be convened in such a way that it will take place not later than two weeks after the request.

(3) The members of the Ombudsman Board shall be obliged to attend the meetings of the Ombudsman Board. If a member is unable to attend a meeting, s/he shall ask another member of the Ombudsman Board to represent him/her at the meeting. If the chairperson is unable to attend a meeting his/her duties shall pass to the member of the Ombudsman Board who is the designated next chairperson pursuant to Article 148g para 3 BVG for the term of the chairperson’s unavailability.

(4) Any member of the Ombudsman Board may file motions for modifications of or amendments to the agenda until the meeting starts. Such motions shall be resolved on before they are included as items on the agenda.

(5) Documents referring to individual items on the agenda shall be disclosed to the members of the Ombudsman Board not later than ten (10) days before the meeting.

(6) Electronic transmission of invitations and documents shall be admissible.

Confidentiality of Meetings

**Article 3** (1) The meetings of the Ombudsman Board shall be *in camera*.

(2) Any member of the Ombudsman Board may call in the head of area of responsibility or the latter’s deputy for meetings of the Ombudsman Board in a consultant capacity; upon a resolution to that effect other persons may also attend the meetings to provide information.

(3) All persons attending meetings of the Ombudsman Board shall be subject to official secrecy as defined by Article 148b para 2 B-VG.

Chair

**Article 4** The current chairperson shall chair the meeting. S/He may interrupt or adjourn the meeting.

Reporting

**Article 5** The member of the Ombudsman Board who is in charge according to the Rules of Business Allocation shall be the reporting person unless the Ombudsman Board resolves otherwise.
**Resolutions**

**Article 6** (1) The Ombudsman Board shall decide by joint resolutions. For joint resolutions of the Ombudsman Board all three members of the Ombudsman Board shall be present. The Ombudsman Board shall, however, also constitute a quorum if only two members of the Ombudsman Board are present and if the absent member of the Ombudsman Board has asked one of the other two members of the Ombudsman Board by written proxy to represent him/her. As regards his/her vote the member of the Ombudsman Board who is being represented may specifically instruct the representing member of the Ombudsman Board how to vote with respect to the individual items on the agenda. Unless a member of the Ombudsman Board demands that the matter be discussed orally, resolutions may also be passed in writing.

(2) Resolutions shall be passed by majority of the votes, unless unanimity of the members of the Ombudsman Board is required.

(3) The member of the Ombudsman Board whose opinion on discharge of an item on the agenda is not shared by the majority shall be entitled to add his/her opinion in writing to the minutes of that meeting.

**Records and Minutes**

**Article 7** (1) Minutes shall be kept on the resolutions passed by the Ombudsman Board. The chairperson shall be responsible for keeping the minutes and may employ a staff called in to the meeting by him/her for that purpose.

(2) The minutes shall be signed by the members of the Ombudsman Board who are present and by the person keeping the minutes.

(3) Every member of the Ombudsman Board shall be sent a copy of the minutes. The minutes may be transmitted electronically.

**Matters subject to Joint Resolution**

**Article 8** The following matters shall in any case be subject to joint resolution of the Ombudsman Board:

(1) reports to the National Council / Nationalrat and the State Parliaments / Landtage;

(2) petitions to the Verfassungsgerichtshof [Austrian Supreme Constitutional Court] for ascertainment of unlawfulness of regulations;

(3) petitions to the Verfassungsgerichtshof for a decision in the case of disagreements on the interpretation of statutory provisions regulating jurisdiction of the Ombudsman Board;

(4) the Standing Orders and the Rules of Business Allocation as well as resolutions as defined in Article 1 para 4;

(5) proposals to the Federal President for awarding of job titles and decorations;

(6) processing of matters the discharge of which is of principal importance or is expected to have effects beyond the specific case, such as recommendations (Article 148c B-VG) and petitions for fixing a deadline to remedy a default of a court (Article 148a para 3 B-VG);
(7) matters to be discharged by joint resolution upon a motion of a member of the Ombudsman Board;

(8) transfer of responsibility for independent discharge of specific cases to another member of the Ombudsman Board upon motion of the member of the Ombudsman Board who is in charge of the matter according to the Rules of Business Allocation. Resolutions shall require unanimity of the members of the Ombudsman Board (Article 6 Rules of Business Allocation of the Ombudsman Board (2007)).

(9) regarding matters which according to their contents belong to the area of responsibility of another member of the Ombudsman Board each member of the Ombudsman Board shall be entitled to apply for an investigation of an alleged grievance as defined in Article 148a paras 1 and 2 B-VG. Such resolution shall require unanimity of the members of the Ombudsman Board.

(10) principal affairs of the Ombudsman Board, such as, e.g., staff matters, budget matters, electronic data processing, further development of the Ombudsman Board, general matters of public relations, events at the office of the Ombudsman Board, publications of the Ombudsman Board.

(11) the decision, which Member of the Ombudsman Board shall exert the function as Secretary General of the International Ombudsman Institute (I.O.I.) that based on its by-laws has its seat at the Austrian Ombudsman Board in Vienna.

**Tasks to be discharged independently by the individual members of the Ombudsman Board**

**Article 9** (1) Matters which are not subject to joint resolutions of the Ombudsman Board (Article 1 para 2) shall be dealt with independently by the individual members of the Ombudsman Board according to the Rules of Business Allocation.

(2) Every member of the Ombudsman Board shall be entitled to hold press conferences (also involving parties concerned, academics and informants) on topics of his/her choice concerning his/her area of examination. The other members shall be notified thereof timely in advance.

(3) Every member of the Ombudsman Board shall provide for his/her representation in the case that s/he is unavailable; in this respect, matters may be divided.

(4) If due to severe circumstances a member of the Ombudsman Board is not able to provide for his/her representation in the case of quite a long absence, the two other members of the Ombudsman Board shall appoint a representative by mutual consent to ensure that the constitutional tasks of the Ombudsman Board will be fulfilled until the unavailable member of the Ombudsman Board decides on his/her representation.

**Inspection of Files**

**Article 10** (1) Every member of the Ombudsman Board has unrestricted access to all files of the Ombudsman Board.

(2) Notwithstanding their other rights to information the members of the Ombudsman Board may agree on a case-by-case basis to be regularly informed about every step in examination proceedings.
Early Resignation of a Member of the Ombudsman Board

**Article 11** (1) In the case of early resignation of a member of the Ombudsman Board the chairperson shall immediately notify the President of the *Nationalrat* thereof.

(2) The tasks for which the retired member of the Ombudsman Board is responsible according to the Rules of Business Allocation shall pass to the remaining members of the Ombudsman Board until a new member of the Ombudsman Board assumes office and shall pass to the new member upon his/her assumption of office.

(3) In the case of early resignation of the chairperson, his/her duties shall pass to that member of the Ombudsman Board who is the designated next chairperson pursuant to Article 148g para 3 *B-VG* notwithstanding the regulation in paragraph 2.

**Article 12** The present Standing Orders shall enter into force on 14 July 2009.

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