

The establishment of the Austrian Ombudsman Board and its legal position is based on article 148a to 148j of the Austrian Federal Constitution (B-VG) and the Federal Law on the Austrian Ombudsman Board (Volksanwaltschaftsgesetz 1982 - VolksanwG).

Chapter 8 of the
Austrian Federal Constitution
Austrian Ombudsman Board

Art. 148a

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

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

(3) Irrespective of para. 1 everyone can lodge complaint with the Volksanwaltschaft in respect of a court's alleged delay in carrying out a procedural act, provided that they are affected by the delay. Para. 2 applies by analogy.

(4) The ombudsman board also shall cooperate in dealing with petitions and initiatives of citizens lodged with the National Council. Detailed provisions about this cooperation shall be made by the federal law about the Standing Orders of the National Council.

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

Art. 148b

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

(2) The ombudsman board must observe official secrecy to the same degree as the authority whom it has approached in the fulfilment of its tasks. The ombudsman board is however

bound by the observation of official secrecy in its reports to the National Council only in so far as this is requisite on behalf of the interest of the parties concerned or of national security.

Art. 148c

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

Art. 148d

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

Art. 148e

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

Art. 148f

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

Art. 148g

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

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

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

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

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

Art. 148h

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

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

(3) The ombudsman board determines its Standing Orders and an allocation of business that regulates which tasks shall be autonomously performed by its members. The adoption of the Standing Orders and the allocation of business requires the unanimous vote of the ombudsman board's members.

Art. 148i

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

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

Art. 148j

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

Extract from the

Federal Law on the

Austrian Ombudsman Board

(Ombudsman Board Act 1982 - VolksanwG)

I. Chapter

Organisation of the Ombudsman Board

Section 1

(1) A quorum of all members of the Ombudsman Board is required for adopting resolutions in this panel. The Internal Rules may determine rules on the representation of a member of the Ombudsman Board in matters which require panel resolutions. Unless provided differently by constitutional law, resolutions shall be adopted with the majority of votes, abstention is not admissible.

(2) Subject to panel resolutions of the Ombudsman Board are such matters as reserved by the Internal Rules or by the allocation of business, in any case the Internal Rules and the allocation of business itself, as well as resolutions on reports to the National Council and on resorting to the Constitutional Court in cases of Art. 148e and 148f Federal Constitution Act.

(3) The mutual representation of members of the Ombudsman Board in handling duties conferred upon them for taking care of on an independent basis in case of being temporarily prevented and permanent carrying out of the office is subject to the provisions of the Ombudsman Board's Internal Rules.

(4) Except for their salaries, the members of the Ombudsman Board rank equal with a Deputy Minister with an agenda of specific duties to be handled.

Section 2

In case a member of the Ombudsman Board is resigning from office before expiry of his term of office, the Chairman shall inform the President of the National Council accordingly without delay.

Section 3

Each member of the Ombudsman Board whose opinion on the contents of a report addressed to the National Council has not obtained a majority of the votes, has the right to attach a dissenting opinion to such report.

Section 4

(1) The Internal Rules may provide that matters recurring on a regular basis and serving to prepare measures to be taken shall be handled by the office.

(2) Internal Rules and allocation of business of the Ombudsman Board shall be published in the Federal Law Gazette.

II Chapter

Proceedings before the Ombudsman Board

Section 5

In proceedings before the Ombudsman Board, the §§ 6, 7, 10, 13, 14, 16, 18 para 1, para 3 second and third clause and para 4 through 6, 21, 22, 32, 33, 45 para 1 and 2, 46 through 51, 52, 53, 54, 55 AVG (General Administrative Procedure Act) and the Service of Documents Act, F. L. G. No. 200/1982, shall apply accordingly.