

Standing Rules of the Ombudsman Board, its commissions and the Human Rights Advisory Council

(unofficial translation, version as of August 2017)

CHAPTER I Ombudsman Board Organization of the Ombudsman Board

§ 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 Art. 148g para 3 of the Federal Constitutional Law.

(2) In the case of early resignation of a member of the Ombudsman Board the Chairperson shall immediately notify the President of the National Council thereof.

(3) The tasks for which the retired member of the Ombudsman Board is responsible according to the Allocation of Responsibilities and Duties 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.

(4) 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 Art. 148g para 3 of the Federal Constitutional Law notwithstanding the regulation in para 2.

§ 2. (1) The area of responsibility of the members of the Ombudsman Board shall be determined on the basis of the Allocation of Responsibilities and Duties 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 Allocation of Responsibilities and Duties for independent discharging, in particular the matters listed in § 9 of these Standing Rules, shall be subject to Board resolutions.

(2) Every member of the Ombudsman Board shall be entitled to request an investigation of alleged maladministration within the meaning of Art. 148a paras 1, 2 and 4 of the Federal Constitutional Law regarding matters assigned to another Ombudsman Board member's area of responsibility based on their substantive content. Such resolution shall require unanimity of the members of the Ombudsman Board.

§ 3. (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 an investigative proceeding.

Convening of meetings of the Ombudsman Board

§ 4. (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. 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. A head of a commission can suggest that a meeting of the members of the Ombudsman Board be convened when there is urgent need to adopt a resolution.

(2) 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 (§ 8 of these Standing Rules). 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 Art. 148g para 3 of the Federal Constitutional Law for the term of the Chairperson's unavailability.

(3) The heads of the commissions shall be entitled to participate in the deliberations of the Ombudsman Board that relate to their areas of responsibility. They shall be permitted to speak, upon request. 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.

(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) Requests for modifications of or supplements to the agenda, which relate to matters within the purview of Chapter III of the Ombudsman Act 1982, may be made no later than one week before the meeting, unless there is an urgent need to address the matter (urgent request). Likewise, the head of a commission may request modifications of or supplements to the agenda with respect to his/her area of responsibility no later than one week before the meeting, unless there is an urgent need to address the matter (urgent request).

(6) Documents referring to individual items on the agenda shall be disclosed to the members of the Ombudsman Board not later than one week before the meeting.

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

Confidentiality of meetings

§ 5. (1) The meetings of the Ombudsman Board shall be in camera.

(2) All persons attending meetings of the Ombudsman Board shall be subject to official confidentiality as defined by Art. 148b para 2 of the Federal Constitutional Law.

§ 6. The current Chairperson shall chair the meeting. S/He may interrupt or adjourn the meeting.

§ 7. The member of the Ombudsman Board who is in charge according to the Allocation of Responsibilities and Duties shall be the reporting person unless the Ombudsman Board resolves otherwise.

Adoption of Board resolutions

§ 8. (1) The Ombudsman Board shall decide by Board resolutions. For Board 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 by circulation.

(2) Resolutions shall be passed by a 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.

(4) 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.

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

(6) Every member of the Ombudsman Board shall be sent a copy of the minutes. Moreover, an excerpt of any discussions relating to the commissions' area of responsibility shall be sent to the head of the commission and the Chairperson of the Human Rights Advisory Council.

(7) Electronic transmission of the minutes shall be admissible.

Matters subject to Board resolution

§ 9. (1) Apart from resolutions on the Standing Rules and the Allocation of Responsibilities and Duties pursuant to Art. 148h para 4 of the Federal Constitutional Law, the following matters shall be subject to resolutions of the Ombudsman Board:

1. recommendations, requests for a deadline and suggestions on measures of supervisory control pursuant to Art. 148c of the Federal Constitutional Law,
2. reports to the National Council and the Federal Council pursuant to Art. 148d para 1 of the Federal Constitutional Law,
3. reports to the Diets,
4. applications to the Constitutional Court pursuant to Art. 148e, Art. 148f and Art. 148i para 1 second sentence of the Federal Constitutional Law,
5. statements of opinions in procedures for the review of draft laws and regulations (§ 7 para 1 of the Ombudsman Act 1982),
6. suggestions on the amendment or adoption of laws (§ 7 para 2 of the Ombudsman Act 1982),
7. the appointment and dismissal of the members of the commissions (§ 12 paras 2 and 4 of the Ombudsman Act 1982) as well as of the Chairperson, the his/her deputy and the other members and substitute members of the Human Rights Advisory Council (§ 15 paras 3 and 6 of the Ombudsman Act 1982),
8. the specification of general monitoring priorities and the formation of interregional commission delegations in charge of these monitoring priorities
9. the quarterly determination of the budgetary ceiling for each commission for the performance of the tasks prescribed by § 11 para 1 of the Ombudsman Act 1982,
10. the conduct of the annual meeting of all commission members,

11. the adoption of resolutions on suggestions by the Human Rights Advisory Council to ensure uniform courses of action and monitoring standards (§ 14 of the Ombudsman Act 1982),
12. proposals to the Federal President for awarding of job titles and decorations,
13. processing of matters the discharge of which is of principal importance or is expected to have effects beyond the specific case,
14. matters to be discharged by Board resolution upon a motion of a member of the Ombudsman Board,
15. 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 Allocation of Responsibilities and Duties,
16. principal affairs of the Ombudsman Board, such as, e.g. staff matters, budget matters, the use of working groups and executive offices, electronic data processing, further development of the Ombudsman Board, fundamental questions of cooperation with non-governmental organizations that devote themselves to the protection of human rights, scientific and academic institutions, schools and other educational institutions, public relations, events at the office of the Ombudsman Board, publications of the Ombudsman Board,
17. the decision which member of the Ombudsman Board shall exert the function as Secretary General of the International Ombudsman Institute (IOI) that based on its By-laws has its seat at the Ombudsman Board in Vienna,
18. the establishment of the Pension Commission according to the Pensions for Victims of Children's Homes Act (PVCHA-HOG), the decision which member of the Ombudsman Board shall be appointed head of the Pension Commission, the appointment and dismissal of members of the Pension Commission, the amount of the remuneration pursuant to §41 of these Standing Rules, the adoption of Standing Rules for the Pension Commission, the adoption of guidelines for the Pension Commission and the recommendations to the decision-makers (§15, para. 1 PVCHA-HOG),
19. decisions adopted by the members of the Ombudsman Board as parliamentary arbitration board under the Rules of Procedure for Parliamentary Committees of Inquiry in accordance with the Rules of Procedure of the National Council.

The adoption of decisions of the parliamentary arbitration board shall require unanimity. Abstention from voting is inadmissible.

§ 10. The heads of the commissions can propose the adoption of a Board resolution when their proposed determinations of cases of maladministration, recommendations or suggestions on measures of supervisory control are not being followed.

Office of the Ombudsman Board

§ 11. The office of the Ombudsman Board shall be divided into the areas of responsibility of the members of the Ombudsman Board and the administrative office.

§ 12. For the purpose of expeditious and purposeful handling of the matters the Chairperson of the Ombudsman Board and any member of the Ombudsman Board, notwithstanding their responsibility, may assign specific current tasks to the heads (or deputy heads) of the areas of responsibility, to the head of the administrative office (or deputy head) and to other employees of the Ombudsman Board for independent discharging while maintaining their authority to give instructions. A decision to this effect shall be taken by Board resolution and notified to the staff of the office of the Ombudsman Board, the members of the commissions of the Ombudsman Board and to the members of the Human Rights Advisory Council.

§ 13. The heads of the areas of responsibility and the officials entrusted with the management of the administrative office shall discuss all the matters of these bodies regularly in order to support the Chairperson of the Ombudsman Board and prepare for the adoption of Board resolutions. To the extent the matter relates to a commission, a working group or an executive office of the Ombudsman Board, the head of the commission, working group or executive office shall be included in the discussion.

Areas of responsibility

§ 14. (1) 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 of the Ombudsman Board 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.

(2) Notwithstanding the regulations of Art. 148h paras 1 and 2 of the Federal Constitutional Law every member of the Ombudsman Board shall directly instruct and supervise the staff assigned to him/her.

(3) Notwithstanding his/her responsibility every member of the Ombudsman Board may appoint a staff member as 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.

Administrative office

§ 15. (1) Under the Chairperson' direct supervision and authority to give instructions the administrative office shall be responsible for preparing and implementing all resolutions of the entire Board and the Chairperson of the Ombudsman Board as the highest administrative body under Art. 148h of the Federal Constitutional Law, in particular in the exercise of authority over public sector employment and as a budgetary management body and with respect to the technical and organizational assistance to be provided on the basis thereof.

(2) The head (chief executive) of the administrative office and his/her deputy shall be a graduate of law. Unless otherwise provided, s/he shall exercise administrative and technical supervision over all employees assigned to the administrative office.

CHAPTER II

The commissions set up by the Ombudsman Board

Duties

§ 16. The commissions set up by the Ombudsman Board shall have the following responsibilities:

1. to regularly visit and inspect places of detention as defined in Art. 4 of the OPCAT,
2. to monitor and concomitantly investigate the conduct of executive bodies and officers of administrative authorities authorised to exercise direct administrative power and compulsion and

3. to regularly visit and inspect facilities and programmes designed to serve persons with disabilities in implementation of Art. 16 para 3 of the Convention on the Rights of Persons with Disabilities, Federal Law Gazette III No. 155/2008, in order to prevent all forms of exploitation, violence and abuse.

Number of members and organization

§17. (1) The establishment and the determination of the number of commissions – which shall be at least six – and the organization of the commissions by function or region shall require the adoption of a joint resolution by the members of the Ombudsman Board.

(2) The Allocation of Responsibilities and Duties of the commissions shall be governed by the Allocation of Responsibilities and Duties of the Ombudsman Board.

(3) The formation of interregional commission delegations is permissible.

Composition

§ 18. Each commission shall consist of the head of the commission and the number of additional members required for the performance of its duties. The minimum total number of members of all commissions shall be 42. A commission shall have at least six members. The Ombudsman Board shall strive to achieve a balanced gender representation and a reasonable representation of ethnic groups and minorities in the commission as well as an independent, interdisciplinary and pluralistic composition in due consideration of the duties of the commissions.

Appointment and terms of office of commission members

§ 19. (1) The appointment of the heads of the commissions shall require the adoption of a Board resolution after public advertisement and a hearing by the Human Rights Advisory Council.

(2) The appointment of the members of the commissions shall require the adoption of a Board resolution after public advertisement and a hearing by the Human Rights Advisory Council and the head of the particular commission. § 4 para 3 of these Standing Rules shall apply accordingly.

(3) All members must have the required capabilities and expert knowledge and the willingness to deal with human rights questions and topics. Persons who perform an activity that could cause doubt about the independent exercise of their function as member of the commission shall be excluded from appointment.

(4) Members shall be appointed for six years. Every three years, half of the members of all commissions shall be newly appointed. Reappointments shall be permissible.

(5) The Ombudsman Board can dismiss a member in writing, stating reasons, before expiry of his/her term of office, after a hearing by the Human Rights Advisory Council. Dismissal may be at the member's request, if the member can no longer perform the duties connected with his/her functions due to the member's state of health or if the member grossly violated or continuously neglected the obligations connected with his/her functions or engaged in activities that could cause doubt about the independent exercise of the member's function.

(6) If a member resigns before expiry of his/her term of office, a new member shall be appointed for the remaining term of office of the resigned member.

Conflicts of interest

§ 20. The head and the other members of a commission set up by the Ombudsman Board shall refrain from performing their functions if one of the grounds set forth in § 7 para 1 nos. 1 to 3 of the General Administrative Procedure Act 1991 exists with respect to their duties. In doubtful cases, a decision shall be obtained from the Chairperson of the Ombudsman Board, or, in urgent cases, from the head of the commission of which the person is a member. The latter shall hear the member concerned.

Management

§ 21. (1) Each commission shall be headed by an eminent person in the field of human rights.

(2) The head of a commission shall be responsible for coordinating all the duties of its commission and for administrative support. S/He shall, in particular:

1. inform the Ombudsman Board of the headquarters address (mailing address) for his/her commission,
2. represent his/her commission vis-a-vis the members of the Ombudsman Board,
3. participate in the discussions of the Ombudsman Board and the Human Rights Advisory Council relating to his/her area of responsibility, when invited,
4. establish visiting programmes for the commission in order to perform its duties under Art. 11 para 1 of the Ombudsman Act 1982, taking the commission's general monitoring priorities and the budgetary ceiling into account,
5. decide whether to conduct visits and investigations apart from the visiting programmes,
6. head interregional visiting delegations (§ 17 para 3 of these Standing Rules),

7. send the records of the commission members' visits and investigations to the Ombudsman Board and verify their completeness and provide an assessment of the human rights aspects under national and international standards of review,
8. send proposed determinations of cases of maladministration and recommendations and suggestions on measures of supervisory control to the Ombudsman Board,
9. chair the meetings of the commission,
10. note indications of conflicts of interest on the part of commission members and the establishment of contractual or principal/agent relationships based on commission activities,
11. coordinate the activities of his/her commission with the heads of the other commissions, particularly the selection and composition of commission delegations to investigate interregional areas of priority, and
12. examine the invoices submitted by the commission members and confirm their factual accuracy.

(3) Every commission shall elect a deputy head of the commission from among its members. The deputy shall temporarily head the commission when the head is unable to perform his/her duties, in particular, due to illness, vacation leave or the performance of other duties.

Procedure of visits and investigations

§ 22. (1) All commissions shall conduct the visits and inspections using the required number of members, but at least two. The head of the commission shall ensure that individual areas of expertise are represented based on the special requirements of the facility to be visited. For this purpose, the head of the commission can also include the members of other commissions, taking into account budgetary constraints.

(2) Visits and inspections shall be conducted in accordance with the visiting programmes established by the commissions to perform the duties set forth in § 11 para 1 of the Ombudsman Act 1982, taking into account general monitoring priorities in accordance with § 13 para 3 of the Ombudsman Act 1982. In individual cases, visits shall be made on the basis of circumstances that have become known – at the request of the competent member of the Ombudsman Board based on the Allocation of Responsibilities and Duties or at the initiative of the head of the commission (“ad hoc visits”).

(3) The visits and inspections do not have to be pre-announced. However, the requirements of the facilities' operation shall be taken into account.

(4) If necessary, additional experts and interpreters may be included in the visits and inspections, taking into account the limits of its allocated budget. The decision on this shall be the responsibility of the commission head.

(5) A record of every visit or inspection shall be prepared within four weeks and sent to the head of the commission for forwarding to the Ombudsman Board. All receipts necessary for the reimbursement of travel expenses shall be attached to the record.

Meetings and resolutions

§ 23. (1) The heads of the commissions shall invite the members to meetings on a regular basis – at least once every quarter – by giving two weeks' notice and advising the items on the agenda and the location of the meeting. The head of the commission shall promptly convene a meeting at the reasoned request of the Ombudsman Board or the request of one-third of the commission members. Electronic transmission of the invitation and documents shall be admissible.

(2) The members of the Ombudsman Board are entitled to participate in commission meetings.

(3) Requests for modifications of or supplements to the agenda may be made by any member of the commission prior to the start of the meeting. Such requests shall be resolved on before they are included as items on the agenda.

(4) The head of the commission shall chair the meeting and ensure compliance with the Standing Rules. S/He can interrupt or adjourn the meeting.

(5) The head of the commission and at least half the commission's members must be present in order to adopt a resolution of the commission. A majority of the votes cast is required to adopt a commission resolution. If there is a tie vote, the head of the commission shall decide. Resolutions may be passed in writing by circulation.

(6) The resolutions adopted by the commission shall be included in the minutes of the meeting and sent to the Ombudsman Board. The head of the commission is in charge of keeping the minutes of the meeting.

(7) Proposed determinations of cases of maladministration and recommendations and suggestions on measures of supervisory control can be provided to the Ombudsman Board by commission resolution. If the Ombudsman Board does not comply with proposals or recommendations of the commissions for recommendations and determinations of cases of maladministration and suggestions on measures of supervisory control, the commissions shall

be entitled to attach comments regarding the activities of the particular commission to the reports by the Ombudsman Board (Art. 148d para 1 of the Federal Constitutional Law).

Remuneration

§ 24. (1) The heads and other members of the commissions shall be entitled to remuneration for the performance of their duties.

(2) The amount of this remuneration shall be based on the salary of a civil service employee in service class V, pay level 2, under the Salary Act 1956 and shall be as follows:

1. for heads of commissions: 20.5 times the aforesaid amount per year and
2. for members of commissions: a flat rate per visit based on the time expended, i.e. 21.36% of the wage rate for whole-day visits (visits up to 12 hours) and 13.67% of the wage rate for half-day visits (visits up to 4 hours).

(3) The flat rate remuneration for the heads of commissions covers all job-related expenditures as well as participation in working groups during the work year. Secretarial and other non-personnel costs are fully included in this flat rate. This job-related remuneration for commission heads shall be disbursed monthly in arrears on an aliquot basis. When the deputy head of the commission temporarily leads the commission in accordance with § 21 para 3 of these Standing Rules, the head of the commission shall provide the deputy with the appropriate share of the flat rate remuneration for heads of commissions for his/her representational activities.

(4) The remuneration for the members of the commissions shall be disbursed after the records and receipts have been sent to the Ombudsman Board in accordance with § 22 para 5 of these Standing Rules.

(5) The heads and the other members of the commissions shall have the right to reimbursement of the travel expenses and the costs of overnight stays incurred in the performance of their duties in accordance with the legal provisions applicable to civil servants (fee level 3).

CHAPTER III

Human Rights Advisory Council

Headquarters

§ 25. The Human Rights Advisory Council shall be located at the office of the Ombudsman Board.

Duties

§ 26. (1) The Human Rights Advisory Council shall be responsible for:

1. advising the Ombudsman Board on matters referred to in § 11 para 1 of the Ombudsman Act 1982, in particular when defining general monitoring priorities as well as before the submission of determinations of cases of maladministration and recommendations;
2. making suggestions to the Ombudsman Board on how to guarantee uniform courses of action and monitoring standards on the matters referred to in item 1
3. advising the Ombudsman Board, at the request of the Ombudsman Board, on its structural evaluation of the performance of the duties set forth in § 11 para 1 of the Ombudsman Act 1982 and the implementation of recommendations in this regard; in addition, the Human Rights Advisory Council shall be heard
4. before the adoption of Board resolutions with respect to its Standing Rules and the appointment of members of commissions.

(2) The personnel and funds needed to perform the functions of the Human Rights Advisory Council under para 1 shall be provided by the Ombudsman Board.

Composition

§ 27. The Human Rights Advisory Council shall consist of one Chairperson, his/her deputy, 14 additional members and 14 substitute members. If at least one Land declares the Ombudsman Board competent also in the sphere of the particular Land's administration pursuant to Art. 148i para 1 first sentence of the Federal Constitutional Law, the Ombudsman Board shall appoint two further members and two substitute members in accordance with § 15 para 4 of the Ombudsman Act 1982, one member and substitute member of them at the proposal of a non-governmental organization for the preservation of human rights and one each on the basis of a joint proposal of the *Laender* concerned. The Ombudsman Board shall strive to achieve a balanced gender representation and a reasonable representation of ethnic groups and minorities in the Human Rights Advisory Council as well as an independent, interdisciplinary and pluralistic composition of the Human Rights Advisory Council.

Appointment and term of office

§ 28. (1) The appointment of the Chairperson, his/her deputy and the other members and substitute members of the Human Rights Advisory Council shall require the adoption of a resolution of the Ombudsman Board.

(2) Only persons who have the required capabilities and expert knowledge in the field of human rights may be appointed members.

(3) The members and substitute members shall be appointed for six years. Reappointment shall be permissible.

(4) The Ombudsman Board can dismiss a member or substitute member before expiry of his/her term of office

1. at the member's or substitute member's request,
2. if the member or substitute member can no longer perform the duties connected with his/her function due to the member's or substitute member's state of health, or
3. if the member or substitute member grossly violated or continuously neglected the obligations connected with his/her function.

The dismissal of a member or substitute member proposed by a non-governmental organization as well as of the Chairperson or his/her deputy shall be in writing, stating reasons.

(5) If a member or substitute member resigns before expiry of his/her term of office, a new member or substitute member shall be appointed for the remaining term of office of the resigned member or substitute member.

Official confidentiality

§ 29. The Chairperson, his/her deputy, the additional members and the substitute members of the Human Rights Advisory Council shall observe official confidentiality to the same extent as the Ombudsman Board.

Conflicts of interest

§ 30. The members and substitute members of the Human Rights Advisory Council shall not vote on a matter at a meeting or not perform their assigned functions if one of the grounds set forth in § 7 para 1 nos. 1 to 3 of the General Administrative Procedure Act 1991 exists with respect to this matter.

Management

§ 31. (1) The Human Rights Advisory Council shall be managed by the Chairperson and, in his/her absence, by his/her deputy. The Chairperson and his/her deputy shall be eminent persons in the field of human rights having excellent knowledge of the organization and functioning of administration and academic qualifications in constitutional law.

(2) The Chairperson shall be responsible for coordinating all the duties of the Human Rights Advisory Council. S/he shall represent the Human Rights Advisory Council vis-a-vis the Ombudsman Board and the outside world.

(3) The Human Rights Advisory Council may decide to set up working groups to perform particular duties. § 32 para 2 sentence 3 of these Standing Rules shall apply accordingly.

Meetings and resolutions

§ 32. (1) The Chairperson shall convene the Human Rights Advisory Council for meetings at the headquarters of the Human Rights Advisory Council on a regular basis – at least once every quarter – by giving two weeks' notice and advising the items on the agenda. The Chairperson shall promptly convene a meeting of the Human Rights Advisory Council at the reasoned request of the Ombudsman Board or six of its own members. Electronic transmission of invitations and documents shall be admissible.

(2) The Chairperson, his/her deputy and all other members shall participate in the meetings of the Human Rights Advisory Council. The members of the Ombudsman Board and the substitute members of the Human Rights Advisory Council shall be entitled to participate in the deliberations. In addition, the Human Rights Advisory Council shall be free to include substitute members of the Human Rights Advisory Council, officials of the Ombudsman Board, members of the commissions and other informants in its deliberations. The Chairperson, his/her deputy and the members or their relevant substitute members of the Human Rights Advisory Council shall be entitled to vote.

(3) Any member of the Human Rights Advisory Council that is entitled to vote can request modifications of or supplements to the agenda up until the start of the meeting. Such requests shall be resolved on before they are included as items on the agenda. Substitute members can make suggestions to modify or supplement the agenda.

(4) The Chairperson shall chair the meeting and ensure compliance with the Standing Rules. S/He may interrupt or adjourn the meeting.

(5) The adoption of a resolution of the Human Rights Advisory Council shall require the presence of the Chairperson or his/her deputy and at least seven additional members or substitute members and a majority of the votes cast. If there is a tie vote, the Chairperson shall decide. Qualified minority opinions shall require the consent of at least five voting members of the Human Rights Advisory Council. Unless five voting members of the Human Rights Advisory Council demand an oral discussion, resolutions can be adopted in writing by circulation.

(6) The resolutions adopted by the Human Rights Advisory Council shall be included in the minutes of the meeting and sent to the Ombudsman Board. The Chairperson shall be in charge of keeping the minutes of the meetings. H/She can delegate this task to an official of the Ombudsman Board in attendance at the meeting.

Remuneration

§ 33. (1) The Chairperson of the Human Rights Advisory Council, his/her deputy and the members proposed by non-governmental organizations shall be entitled to financial remuneration for the performance of their duties.

(2) The Chairperson's remuneration for the work year shall be 748% of the monthly salary of a civil servant in service class V, pay level 2 under the Salary Act 1956. The deputy's remuneration for the work year shall be 641% of the monthly salary of a civil servant in service class V, pay level 2 under the Salary Act 1956. The members proposed by non-governmental organization shall receive remuneration of 214% of the monthly salary of a civil servant in service class V, pay level 2 under the Salary Act 1956 for the work year. If a member proposed by a non-governmental organization is represented by a substitute member, the member shall provide the substitute member with an appropriate share of his/her flat rate compensation for his/her representational activities

(3) These remunerations shall be all-inclusive and shall cover all expenses for the work year (except for travel expenses). The compensation shall be disbursed monthly in arrears on an aliquot basis.

(4) The Chairperson and his/her deputy, members proposed by non-governmental organizations, and persons called in by the Human Rights Advisory Council shall have a right to reimbursement of travel expenses incurred in the performance of their duties (at fee level 3 for foreign trips) in accordance with the legal provisions applicable to civil servants. For this purpose, the person's main place of residence or his/her workplace shall be deemed to be the place of employment based on the principles of thrift, efficiency, and expediency.

Chapter IV.

Pension Commission

Organization

§34. (1) The Pension Commission has its seat at the Ombudsman Board. It shall consist of the necessary number of members, at least five. A member of the Ombudsman Board shall act as head of the Commission.

(2) Subcommittees may be established for inquiries and the preparation of proposals of the Pension Commission.

Duties

§35. (1) The Pension Commission and the Ombudsman Board shall deal with those circumstances of the offence (use of violence, injuries) which were ascertained at the Clearing and with the special grounds set forth in §1 para. 2 PVCHA, due to which the applicant was not able to submit an admissible, timely request to the management of the children's home or youth welfare carrier or to the institutions commissioned with the processing of compensations, or if an admissible and timely request was not complied with.

(2) The Pension Commission may conduct its own inquiries or entrust the Clearing Agency with further fact-finding measures.

(3) The Pension Commission shall be responsible for drawing up a proposal for a reasoned recommendation in writing of the Ombudsman Board for the decision-maker (§15 para. 1 PVCHA).

§36. If applications pursuant to the PVCHA are submitted to the Ombudsman Board, they shall be considered to have been submitted to the Pension Commission.

Appointment and terms of office of Pension Commission members

§37. (1) The appointment and dismissal of the head of the Pension Commission and the additional members shall require the adoption of a Board resolution. Representatives of victim support organizations and persons with proven capabilities and knowledge in the area of victim support shall be appointed as members in any case.

(2) The additional members of the Pension Commission shall be appointed for 3 years. Repeated re-appointments shall be admissible.

(3) The Ombudsman Board can dismiss a member at any time, in particular

1. at the member's request
2. if the member can no longer perform the duties connected with his/her functions due to the member's state of health or
3. if the member grossly violated or continuously neglected the obligations connected with his/her functions. The dismissal shall be in writing.

(4) If a member resigns before expiry of his/her term of office, a new member shall be appointed by the Ombudsman Board for the remaining term of office of the resigned member.

Official confidentiality

§38. The members of the Pension Commission must observe official confidentiality to the same degree as the Ombudsman Board.

Conflict of interest

§39. In exercising their duties, the members of the Pension Commission shall abstain from voting on a matter at a meeting or from exercising their assigned functions, if one of the grounds set forth in §7 para 1 nos. 1 to 3 of the General Administrative Procedure Act 1991 exists with respect to this matter.

Meetings and resolutions

§40. (1) The head shall invite the Pension Commission to a meeting on a regular basis – at least four times a year – by giving two weeks' notice and advising the items on the agenda. Electronic transmission of invitations and documents shall be admissible. Requests that will be decided upon by way of resolution shall be announced in the agenda.

(2) The head and all additional members of the Pension Commission shall participate in the meetings of the Pension Commission. In addition, the Pension Commission shall be free to include informants in its deliberations. The head and the additional members of the Pension Commission shall be entitled to vote.

(3) The head of the Pension Commission shall chair the meeting and ensure compliance with the Standing Rules. S/He may interrupt or adjourn the meeting.

(4) The Pension Commission shall adopt resolutions on the basis of guidelines issued by the Ombudsman Board.

(5) The adoption of a resolution of the Pension Commission shall require the presence of the head and at least half of the additional members and a majority of the votes cast. Abstention of voting is inadmissible. If there is a tie vote, the head of the Pension Commission shall decide.

(6) Unless a member of the Pension Commission demands an oral discussion, resolutions can be adopted in writing by circulation.

(7) The resolutions adopted by the Pension Commission shall be included in the minutes of the meeting. The head of the Pension Commission shall be in charge of keeping the minutes of the meeting. He/She can delegate this task to an official of the office of the Pension Commission in attendance at the meeting.

Remuneration

§41. (1) The members of the Pension Commission – with the exception of the head – shall be entitled to financial remuneration for the performance of their duties. The amount of remuneration is subject to Board a resolution.

(2) These remunerations shall be all-inclusive and shall cover all expenses (except for travel expenses). The compensation shall be disbursed monthly in arrears after having received an invoice.

(3) The members of the Pension Commission as well as persons called in by the Pension Commission shall have a right to reimbursement of travel expenses incurred in the performance of their duties (at fee level 3 for foreign trips) in accordance with the legal provisions applicable to civil servants. For this purpose, the person's main place of residence or his/her workplace shall be deemed to be the place of employment based on the principles of thrift, efficiency, and expediency.

Office of the Pension Commission

§42. (1) The office of the Pension Commission shall conduct the business of the Pension Commission under the management of the head of the Pension Commission.

(2) Applications pursuant to the PVCHA submitted to the Pension Commission shall be forwarded from the office of the Pension Commission to the decision-makers without unnecessary delay in accordance with §3 PVCHA.

Entry into force

§43. These Standing Rules shall enter into force on 1 July 2017.

Kräuter Brinek Fichtenbauer